

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RICKY D. HENSON, #607336

§

VS.

§

CIVIL ACTION NO. 6:12cv240

DIRECTOR, TDCJ-CID

§

ORDER ADOPTING REPORT AND RECOMMENDATION

The above-entitled and numbered motion to vacate, set aside or correct a federal sentence pursuant to 28 U.S.C. § 2254 was heretofore referred to United States Magistrate Judge John D. Love. The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Petitioner has filed objections.

Having made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and Petitioner's objections are without merit. Specifically, Petitioner argues that he does not raise the issues of commissary and cell restriction restrictions or loss of good time in his petition, but simply contends that his due process rights were violated through the disciplinary case process. However, he misses the point of the Magistrate Judge's Report and Recommendation. There, the Magistrate Judge acknowledged the substance of his argument, which is indeed focused on due process. However, due process in the context of a prison disciplinary case is measured by whether a liberty interest has been impinged. See *Wolff v. McDonnell*, 418 U.S. 539, 558, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974); *Sandin v. Conner*, 515 U.S. 472, 115 S. Ct. 2293, 132 L. Ed. 2d 418 (1995). Under the Fifth Circuit jurisprudence cited by the Magistrate Judge, Petitioner's due process rights have not been violated

because of the limited nature of the punishment he received as a result of his disciplinary case, which did not include, for example, loss of good time. He has not addressed this point at all, but simply returns to his original focus on how his disciplinary case was conducted. His argument is therefore without merit. It is therefore

ORDERED that Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this 10th day of May, 2012.

A handwritten signature in black ink, reading "Michael H. Schneider". The signature is written in a cursive style with a horizontal line underneath it.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE