

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

JOHN BRILEY §
v. § CIVIL ACTION NO. 6:13cv954
UNITED STATES OF AMERICA §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner John Briley, a former inmate of the Van Zandt County Jail proceeding *pro se*, filed this application for the writ of habeas corpus complaining of the legality of his confinement. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On December 13, 2013, the Magistrate Judge ordered Briley to pay the statutory filing fee or to file an application for leave to proceed *in forma pauperis* accompanied by a certified inmate trust account data sheet, as required by 28 U.S.C. §1915(a)(2). The Magistrate Judge also directed that Briley file an amended petition setting out his grounds for relief and the facts supporting such grounds. These orders were returned as undeliverable with the notation that Briley had been released on December 13. To date, Briley has not notified the Court of his present mailing address or current whereabouts.

On January 2, 2014, the Magistrate Judge issued a Report recommending that the application for habeas corpus relief be dismissed without prejudice for failure to prosecute. A copy of this Report was sent to Briley at his last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review

of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

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ORDERED that the Report of the Magistrate Judge (docket no. 7) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus is hereby **DISMISSED WITHOUT PREJUDICE**. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 3rd day of February, 2014.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE