

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

ANTONIO DUDLEY §
v. § CIVIL ACTION NO. 6:15cv84
DIRECTOR, TDCJ-CID §

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

The Petitioner Antonio Dudley, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of prison disciplinary action taken against him during his confinement in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the matter 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.

After review of the pleadings, the magistrate judge issued a report concluding that Dudley failed to exhaust his available state remedies. The magistrate judge therefore recommended that Dudley's petition be dismissed without prejudice and that Dudley be denied a certificate of appealability *sua sponte*.

A copy of the report was sent to Dudley at his last known address, return receipt requested, but no objections have been filed; 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


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 be and hereby is **DISMISSED WITHOUT PREJUDICE**. It is further

ORDERED that the Petitioner Antonio Dudley is hereby **DENIED** a certificate of appealability *sua sponte*. This denial refers only to the dismissal of the present petition and has no effect upon the Petitioner's right to complete the exhaustion process or his right to seek relief in federal court in the event that he does not obtain the relief which he seeks through the prison grievance procedure. Finally, it is

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

SIGNED this 17th day of March, 2015.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE