

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

BRIAN PAUL §
v. § CIVIL ACTION NO. 6:15cv166
DIRECTOR, TDCJ-CID §

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

The Petitioner Brian Paul, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his conviction. 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.

Paul was convicted of aggravated robbery, receiving a sentence of 50 years in prison. After exhausting his state remedies, he sought federal habeas corpus relief. The Respondent filed a motion to dismiss Paul's petition as barred by the statute of limitations. Paul did not file a response to this motion.

After review of the pleadings and the state court records, the magistrate judge issued a report recommending that the petition be dismissed as time-barred. No objections were filed to the report; consequently, the parties are 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. 14) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Respondent's motion to dismiss (docket no. 13) is **GRANTED** and the above-styled application for the writ of habeas corpus is **DISMISSED WITH PREJUDICE**. It is further

ORDERED that the Petitioner Brian Paul is **DENIED** a certificate of appealability *sua sponte*. Finally, it is

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

SIGNED this 12th day of January, 2016.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE