

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

TYLER DIVISION

JEREMY LAYMANCE, #163960

§

VS.

§

CIVIL ACTION NO. 6:17cv630

ANDERSON COUNTY, TEXAS

§

MEMORANDUM OPINION ADOPTING THE REPORT
OF THE UNITED STATES MAGISTRATE JUDGE

Petitioner Jeremy Laymance, proceeding *pro se*, filed this petition for a writ of habeas corpus under section 2254. The case was referred to the United States Magistrate Judge, the Honorable Judge John D. Love.

On July 18, 2018, Laymance filed a motion for nonsuit, (Dkt. #17), explaining that he wished to dismiss the cause of action because he “was acquitted at trial” on July 16, 2018. Subsequently, the United States Magistrate Judge issued a Report, (Dkt. #20), recommending that Laymance’s motion—construed as a motion for voluntary dismissal—should be granted. A copy of this Report was sent to Laymance’s address. However, to date, no objections to the Report have been filed. Laymance has not communicated with the court since he filed his motion for nonsuit in July 2018.

Consequently, Laymance 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 Auto. Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

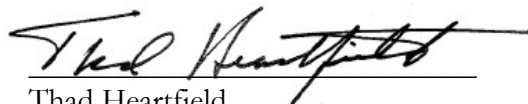
The court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (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.”). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #20), is **ADOPTED** as the opinion of the court. Further, it is

ORDERED that Petitioner’s motion for nonsuit, (Dkt. #17), which the court construes as a notice of voluntary dismissal, is **GRANTED**. Petitioner’s federal petition for a writ of habeas corpus is **DISMISSED** on Petitioner’s own motion. Finally, it is

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

SIGNED this the 26 day of **October, 2018**.


Thad Heartfield
United States District Judge