

IN THE UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION

EMANUAL DELEON FIELDS,	§	
	§	
Petitioner	§	
	§	
V.	§	No. 3:13-cv-3418-N
	§	
NATHANIEL QUARTERMAN, Director	§	
Texas Department of Criminal Justice	§	
Correctional Institutions Division,	§	
	§	
Respondent.	§	

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
 RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. An objection was filed by Petitioner. The District Court reviewed *de novo* those portions of the proposed findings, conclusions, and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. Finding no error, the Court ACCEPTS the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.


Because the Court is transferring this successive habeas application to the United States Court of Appeals for the Fifth Circuit for appropriate action, the Court need not address whether Petitioner is entitled to a certificate of appealability (“COA”). *See United States v. Fulton*, 780 F.3d 683, 688 (5th Cir. 2015) (“[A] transfer order under 28 U.S.C. § 1631 is not a final order within the meaning of [28 U.S.C.] §

2253(c)(1)(B), and the appeal of such an order does not require a COA.”); *Guel-Rivas v. Stephens*, ___ F. App’x ___, No. 14–50681, 2015 WL 1505989, at *1 (5th Cir. Apr. 3, 2015) (per curiam) (applying *Fulton*’s holding to transfer of a successive Section 2254 application). But in the event the Petitioner will file a notice of appeal, the Court notes that the Petitioner must pay the filing fee or file a motion for leave proceed *in forma pauperis* on appeal.

Further, the Clerk of Court is directed to open, for statistical purposes, a new civil action (nature of suit 530), assigned to United States District Judge David C. Godbey and United States Magistrate Judge David L. Horan, to docket Petitioner’s “Motion for Leave to Proceed on Newly Discovered Evidence Under the Ends of Justice on Actual Innocence” in the new civil case, and to close the new case on the basis of this order.

And Petitioner’s “Motion for Leave to Proceed on Newly Discovered Evidence Under the Ends of Justice on Actual Innocence” motion in his 2013 case, *Fields v. Quarterman*, No. 3:13-cv-3418-N (N.D. Tex.), is termed.

SO ORDERED this 7th day of May, 2015.


DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE