

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

ETHAN TODD STEWART, 1754814,

Petitioner,

v.

STATE OF TEXAS,

Respondent.

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Civil Action No. **3:15-CV-449-L**

ORDER

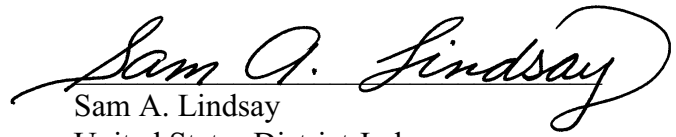
This case was referred to Magistrate Judge Paul D. Stickney, who entered Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) on March 11, 2015, recommending that Petitioner Ethan Todd Stewart’s Petition for Writ of Mandamus be denied and this action dismissed with prejudice as frivolous pursuant to 28 U.S.C. § 1915A(b). Petitioner filed objections to the Report (Doc. 11), which were docketed on March 24, 2015. Petitioner also filed a motion requesting a “trial de novo,” (Doc. 10), which was docketed on March 17, 2015.

After considering the pleadings, file, the record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **overrules** Petitioner’s objections (Doc. 11), **denies** the Petition for Writ of Mandamus (Doc. 3), and **dismisses with prejudice** this case as frivolous pursuant to 28 U.S.C. § 1915A(b). The court also **denies** Petitioner’s request for a “trial de novo” (Doc. 10).

The court prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. 24(a)(3). In support of this certification, the court **accepts and incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 and

n.21 (5th Cir. 1997). The court concludes that any appeal of this action would present no legal point of arguable merit and would therefore be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. 24(a)(5).

It is so ordered this 2nd day of April, 2015.


Sam A. Lindsay
United States District Judge