

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

<b>RICKY WAYNE TOLBERT, #00600956,</b>	§	
	§	
Petitioner,	§	
	§	
v.	§	Civil Action No. <b>3:15-CV-2269-L</b>
	§	
<b>LORIE DAVIS, Director</b>	§	
<b>Texas Department of Criminal Justice,</b>	§	
<b>Correctional Institutions Div.,</b>	§	
	§	
Respondent.	§	

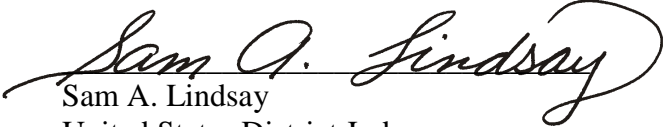
**ORDER**

This habeas case was referred to Magistrate Judge Renée Harris Toliver, who entered Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 21) on July 22, 2016, recommending that Petitioner’s habeas petition be construed as successive and dismissed without prejudice for lack of jurisdiction. Petitioner filed objections to the Report, which were docketed on August 4, 2016.

When a petition is deemed successive, the district court lacks subject matter jurisdiction unless a panel of the Fifth Circuit allows the successive petition to proceed. After reviewing the pleadings, file, record in this case, and Report, and having conducting a de novo review of that portion of the Report to which objection was made, 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, **directs** the clerk of the court to **transfer** the habeas petition in this case to the United States Court of Appeals for the Fifth Circuit Fifth Circuit for determination, and **dismisses without prejudice** this action for lack of

subject matter jurisdiction. In the event Petitioner files a notice of appeal, he may proceed in forma pauperis on appeal.

**It is so ordered** this 6th day of October, 2016.

  
Sam A. Lindsay  
United States District Judge