

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

**KENNY DALE JENKINS,**

Petitioner,

v.

**LORIE DAVIS, Director,  
 Texas Department of Criminal Justice,  
 Correctional Institutions Div.,**

Respondent.

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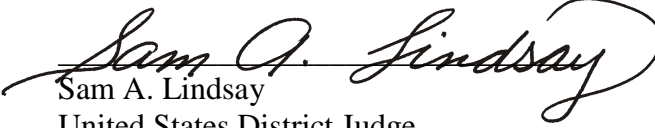
Civil Action No. **3:16-CV-2117-L**

**ORDER**

This habeas case was referred to Magistrate Judge Paul D. Stickney, who entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 5) on July 29, 2016, recommending that Petitioner’s habeas petition be construed as successive and transferred to the United States Court of Appeals for the Fifth Circuit. See 28 U.S.C. § 2244(b)(3). On August 12, 2016, the court received Petitioner’s objections to the Report.

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, **accepts** them as those of the court, and **overrules** Petitioner’s objections. Accordingly, the court **directs** the clerk of the court to **transfer** the habeas petition in this case to the Fifth Circuit for determination, and **dismisses without prejudice** this action for lack of subject matter jurisdiction.

**It is so ordered** this 5th day of October, 2016.

  
Sam A. Lindsay  
United States District Judge