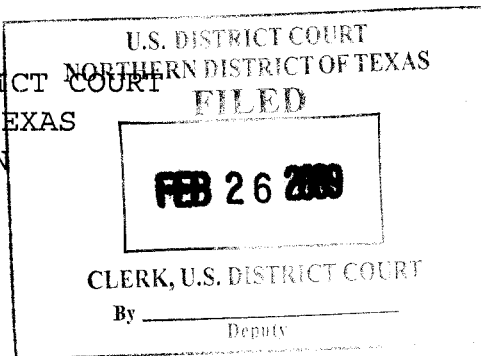


IN THE UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF TEXAS
 FORT WORTH DIVISION



FRANK JOE JIMENEZ III,

§

Applicant,

§

§

§

VS.

§

NO. 4:08-CV-753-A

§

NATHANIEL QUARTERMAN, DIRECTOR,

§

TEXAS DEPARTMENT OF CRIMINAL

§

JUSTICE, CORRECTIONAL

§

INSTITUTIONS DIVISION,

§

§

Respondent.

§

ORDER

Came on for consideration the above-captioned action wherein Frank Joe Jimenez III is applicant and Nathaniel Quarterman, Director, Texas Department of Criminal Justice, Correctional Institutions Division, is respondent. This is an application for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. On February 2, 2009, the United States Magistrate Judge issued his proposed findings, conclusions, and recommendation ("proposed FC&R"), and ordered that the parties file objections, if any thereto, by February 23, 2009. Applicant filed his objections, and respondent has not made any further response.

In accordance with 28 U.S.C. § 636(b)(1) and Rule 72 of the Federal Rules of Civil Procedure, the court makes a de novo

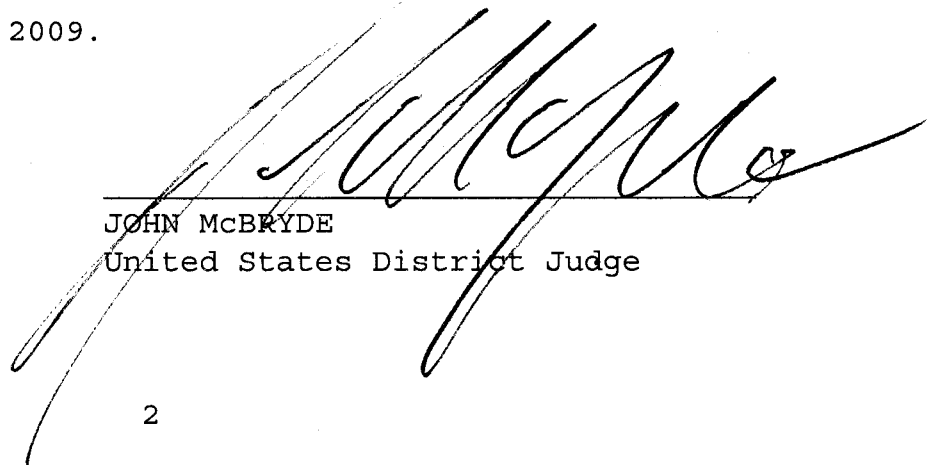
determination of those portions of the proposed findings or recommendations to which specific objection is made. United States v. Raddatz, 447 U.S. 667 (1980). The court is not addressing any nonspecific objections or any frivolous or conclusory objections. Battle v. United States Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987).

The magistrate judge concluded that the application should be dismissed as a successive application filed without authorization from the United States Court of Appeals for the Fifth Circuit. See 28 U.S.C. § 2244(b)(1). Applicant in his objections does not address this conclusion, but only reurges one of the original grounds on which his application is based.

Therefore,

The court accepts the findings, conclusions and recommendation of the magistrate judge and ORDERS that the application in this action pursuant to 28 U.S.C. § 2254 be, and is hereby, dismissed as successive.

SIGNED February 26, 2009.



JOHN McBRYDE
United States District Judge