

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION

RAY ACUNA,
TDCJ No. 01517230,

Petitioner,

v.

LORIE DAVIS, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

§
§
§
§
§
§
§
§
§
§

Civil Action No. 7:17-CV-135-O

ORDER ACCEPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND TRANSFERRING CASE

After making an independent review of the pleadings, files, and records in this case, of the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, and of Petitioner’s objections thereto, I am of the opinion that the findings of fact, conclusions of law, and reasons for transfer of this case as set forth in the Magistrate Judge’s Recommendation are correct and they are hereby adopted and incorporated by reference as the Findings of the Court.

As stated by the Magistrate Judge, when a petition is second or successive, the petitioner must seek an order from the Fifth Circuit Court of Appeals that authorizes this Court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A). Because the instant petition is successive, the district court is without authority to entertain the petition unless leave to file is granted by the Court of Appeals.

It is therefore **ORDERED** that the petition for writ of habeas corpus, brought pursuant to 28 U.S.C. § 2254, is hereby **TRANSFERRED** to the United States Court of Appeals for the Fifth

Circuit pursuant to *Henderson v. Haro*, 282 F.3d 862, 864 (5th Cir. 2002) and *In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997).

SO ORDERED this 12th day of October, 2017.


Reed O'Connor
UNITED STATES DISTRICT JUDGE