

United States District Court

Southern District of Texas

ENTERED

November 17, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

JEFFERY WADE GORDON, §
“Petitioner”, §
v. § Civil Action No. 1:22-cv-131
§
BOBBY LUMPKIN, Director, Texas §
Department of Criminal Justice, §
Correctional Institutions Division, §
“Respondent”. §

ORDER ADOPTING MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

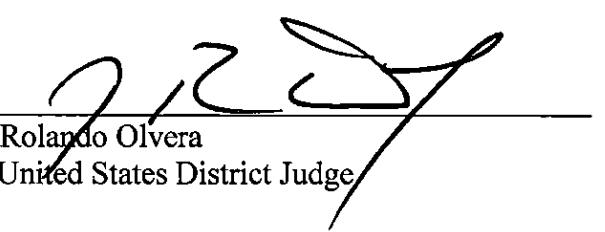
Before the Court are these pleadings: Petitioner’s untitled submission (“Petitioner’s Untitled Submission”) (Dkt. No. 1) and Magistrate Judge’s “Report and Recommendation” (“R&R”) (Dkt. No. 6). A review of Petitioner’s Untitled Submission reveals that: (1) he is seeking to assert § 2254 habeas claims; and (2) he may also be trying to assert § 1983 civil rights claims. The R&R recommends this Court (1) sever Petitioner’s Untitled Submission (Dkt. No. 1) into a § 1983 “Complaint” and a § 2254 “Petition” (2) dismiss Petitioner’s § 1983 Complaint without prejudice to refiling (3) direct the Clerk of Court to send Petitioner a form for refiling of a 42 U.S.C. § 1983 complaint and an Application to Proceed in Forma Pauperis (4) notify Petitioner that, if he wishes to file a § 1983 Complaint, he should complete the form and file it within the District and Division where the conduct causing his alleged injuries occurred and (5) direct the Clerk of Court to transfer Petitioner’s Petition to the United States District Court, Eastern District of Texas, Tyler Division.

No objections were filed by either party. When no objections are filed to a magistrate judge’s ruling, the district court applies the “clearly erroneous, abuse of discretion and contrary to law” standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Finding no clear error, abuse of discretion, or finding contrary to law, the R&R is **ADOPTED**.

1. Petitioner’s Untitled Submission (Dkt. No. 1) is **SEVERED** into a § 1983 “Complaint” and a § 2254 “Petition”.
2. Petitioner’s Complaint is **DISMISSED** without prejudice.
3. The Clerk of the Court is **ORDERED** to send Petitioner a form for the filing of a 42 U.S.C. § 1983 complaint and an Application to Proceed in Forma Pauperis.

4. The Clerk of the Court is **ORDERED** to **NOTIFY** Petitioner that, if he wishes to file a § 1983 Complaint, he should complete the form and file it with the District and Division where the conduct causing his alleged injuries occurred.
5. The Clerk of the Court is **ORDERED** to **TRANSFER** Petitioner's Petition to the United States District Court, Eastern District of Texas, Tyler Division.

Signed on this 17th day of November, 2022.



Rolando Olvera
United States District Judge