IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

GENERAL ORDER REFERRING § 2254 AND § 2241 HABEAS CORPUS CASES

Pursuant to Title 28 U.S.C. § 636(b)(1) and (3) and Appendix B, the Local Rules of Court for the Assignment of Duties to U.S. Magistrate Judges, it is ORDERED that all habeas corpus cases filed by prisoners under 28 U.S.C. § 2254 and 28 U.S.C. § 2241 shall be referred to a magistrate judge that serves in the division where the case was filed. This includes all pending habeas corpus cases. In divisions that have more than one magistrate judge, the magistrate judge shall be randomly selected by the U.S. district clerk.

When parties consent to disposition by a magistrate judge of an action under 28 U.S.C. § 2254 or an action challenging execution of a sentence under 28 U.S.C, § 2241, the action shall be reassigned automatically to the referral magistrate judge, who shall conduct any and all proceedings and order entry of judgment in the case.

The referral magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearings or other appropriate proceedings. Unless the parties consent to the disposition of the case by the magistrate judge, the magistrate judge shall submit to the presiding district judge a report containing proposed findings of fact and recommendations for disposition of the case.
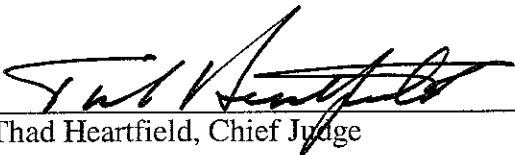
The referral magistrate judge is designated to hear and determine all pre-trial matters and motions in connection with such suits except, where the parties have not consented to disposition by the magistrate judge, those motions excepted in 28 U.S.C. § 636(b)(1)(A). In such cases, the magistrate judge is designated to conduct hearings, including evidentiary hearings, and to submit to

the presiding judge findings of fact and recommendations for the disposition of all motions excepted under 28 U.S.C. § 636(b)(1)(A).

A judge may opt out of this general order by entering an order.

SIGNED this **22** day of February, 2005.

FOR THE COURT:

Thad Heartfield, Chief Judge