

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES HENRY ADUDDLE,	§	
Petitioner,	§	
	§	
v.	§	CIVIL ACTION NO: H-07-0323
	§	
NATHANIEL QUARTERMAN,	§	
Director of the Texas Department	§	
of Criminal Justice - Correctional	§	
Institutions Division,	§	
Respondent.	§	

MEMORANDUM AND RECOMMENDATION

James Henry Aduddle’s petition for writ of habeas corpus pursuant to 28 U.S.C. §§ 2241 and 2254 has been referred to this magistrate judge for a report and recommendation (Dkt. 5). The court recommends that Aduddle’s petition be denied with prejudice.

BACKGROUND

Aduddle is currently is the custody of the Texas Department of Criminal Justice serving a 30-year sentence for attempted capital murder and aggravated robbery. Aduddle is not eligible for release to mandatory supervision due to the nature of his offenses.¹ It is not necessary to recite the procedural history of Aduddle’s appeal and state habeas proceedings because Aduddle is challenging a disciplinary hearing, not his conviction.

On January 26, 2006, Aduddle was found guilty of extortion, a Level 1, Code 15.1 violation of the TDCJ-CID *Disciplinary Rules and Procedures for Offenders*, after a hearing

¹ In his petition, Aduddle checked the box acknowledging that he is not eligible for mandatory supervised release. Dkt. 1, at 5 ¶ 16.

at which he appeared and pleaded not guilty. The disciplinary officer assessed punishment as (1) 45 days loss of recreation and commissary privileges; (2) a reduction in line class from S3 to L2; and (3) loss of 365 days good time credit. Aduddle appealed by filing a step-one grievance, which was denied March 6, 2006. Aduddle filed a step-two grievance, resulting in modification of his offense from extortion to trafficking and trading², and modification of his punishment to (1) loss of 30 days good time and (2) reduction in line class from S3 to L1. Aduddle filed this federal petition on January 16, 2007. Aduddle alleges that he was denied due process in his disciplinary hearing.³

ANALYSIS

A prisoner is entitled to federal habeas relief only when he has been deprived of some right secured by the United States Constitution or federal law. *Teague v. Quarterman*, 482 F.3d 769, 773 (5th Cir. 2007). “The Due Process Clause does not protect every change in the conditions of confinement having a substantial adverse impact on the prisoner.” *Sandin v. Conner*, 515 U.S. 472, 478 (1995). However, prisoners do not lose all constitutional rights when they are incarcerated. *Wolff v. McDonnell*, 418 U.S. 539, 555 (1974). While the Supreme Court explained in *Sandin* that states may under certain circumstances create rights that implicate Due Process, such rights are limited to freedom from restraints that impose

² Trafficking and trading is a Level 2, Code 15 violation of the TDCJ-CID *Disciplinary Rules and Procedures for Offenders*.

³ Aduddle alleges his procedural rights were violated in various ways; there was insufficient evidence of his guilt; and the penalty was retaliatory and too severe. *See* Memorandum in Support, Dkt. 2, at 3-5.

“atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” 515 U.S. at 484.

Aduddle cannot state a claim for federal relief based on his punishment of a reduction in line status from S3 to L1.⁴ A prisoner cannot state a claim for federal habeas relief based on disciplinary sanctions unless the sanctions imposed affect the fact or duration of the prisoner’s sentence. *Malchi v. Thaler*, 211 F.3d 953, 958 (5th Cir 2000). A change in good time earning classification will not “inevitably” affect the duration of a prisoner’s sentence and thus does not give rise to a claim for federal habeas relief. *Malchi*, 211 F.3d at 959; *Carson v. Johnson*, 112 F.3d 818, 821 (5th Cir. 1997); *Sandin*, 515 U.S. at 487.

Aduddle also cannot state a claim for relief based on his loss of good time credits. “The Constitution does not guarantee good time credit for satisfactory behavior while in prison,” but the state may create such a right. *Madison v. Parker*, 104 F.3d 765, 768 (5th Cir. 1997); *Wolff*, 418 U.S. at 558. In Texas, a prisoner may become eligible for release by parole or under mandatory supervised release. Parole refers to the discretionary and

⁴ Aduddle had already served his 45 days of loss of recreation and commissary privileges at the time of the ruling on his step-two grievance, thus that punishment was not addressed in the appeal ruling. To the extent Aduddle seeks relief based on his loss of recreation and commissary privileges, his claim must be denied. The loss of 45 days recreation and commissary privileges are not atypical of the hardships that commonly occur in prison life. See *Malchi*, 211 F.3d at 958 (“Clearly, . . . thirty day loss of commissary privileges and cell restriction do not implicate due process concerns”); *Madison*, 104 F.3d 765, 767 (5th Cir. 1997) (loss of commissary and cell restriction); *Pickens v. Minton*, 109 Fed. Appx. 655, 656 (5th Cir. 2004) (placement in isolation for 20 days); *Sandin*, 515 U.S. at 485-86 (segregated confinement).

conditional release of a prisoner to serve the remainder of his sentence under the supervision and control of the pardons and paroles division. Mandatory supervision refers to the release of an eligible prisoner when his actual time served plus accrued good time equals his sentence. *Teague*, 482 F.3d at 774. “There is no right or constitutional expectancy of early release on parole in Texas, because parole is within the total and unfettered discretion of the State.” *Teague v. Quarterman*, 482 F.3d 769, 776 (5th Cir. 2007); *Madison v. Parker*, 104 f.3d 765, 768 (5th Cir. 1997).

In contrast to Texas’s parole scheme, Texas’s mandatory supervision scheme, “with its narrowly limited modicum of discretion,” does create a protected liberty interest in previously earned good time credits. *Teague*, 482 F.3d at 776. However, not all prisoners are eligible for release under mandatory supervision. Texas Government Code § 508.149 provides that an inmate may not be released to mandatory supervision if he has been convicted of an offense for which the judgment includes an affirmative finding under TEX. CODE CRIM. PRO. art. 42.12 § 3(g)(a)(2)⁵ (§ 508.149(a)(1)); if he is serving a sentence for a capital felony under TEX. PENAL CODE § 19.03 (capital murder) (§ 508.149(a)(3)); or if he is serving a sentence for a first degree felony under TEX. PENAL CODE § 29.03 (aggravated robbery) (§ 508.149(a)(12)), all of which apply to Aduddle. Because Aduddle is not eligible for release to mandatory supervision, he has no constitutional expectancy of early release and

⁵ Section 3(g)(a)(2) relates to the use of deadly weapon. Aduddle checked the box on his petition acknowledging that his conviction included a finding that he used a deadly weapon. Dkt. 1, at 5, ¶ 15.

his disciplinary proceeding did not trigger due process protections. *See Madison*, 104 F.3d at 769 (remanding for determination whether Madison was eligible for mandatory supervision).

CONCLUSION

Aduddle cannot state a claim for federal habeas relief based on alleged constitutional defects in his disciplinary proceeding. Therefore, the court recommends that Aduddle's petition be denied with prejudice.

The court further finds that Aduddle has not made a substantial showing that he was denied a constitutional right or that it is debatable whether this court is correct in its procedural ruling. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Therefore, the court recommends that a certificate of appealability not issue.

The parties have ten days from service of this Memorandum and Recommendation to file written objections. Failure to file timely objections will preclude appellate review of factual findings or legal conclusions, except for plain error. *See* Rule 8(b) of the Rules Governing Section 2254 Cases; 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72.

Signed at Houston, Texas on November 20, 2007.


Stephen Wm Smith
United States Magistrate Judge