

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION

ALBERT McHAN

PETITIONER

v.

No. 4:16-cv-786-DPM

WENDY KELLEY, Director,
Arkansas Department of Correction

RESPONDENT

ORDER

On further *de novo* review, the Court concludes that it made a mistake in its Order filed today, *No. 14*, on the recommendation, *No. 12*. The Magistrate Judge considered and addressed the *Martinez/Trevino* issue, *No. 12 at 10 n.9*. The Court overlooked this footnote. And McHan has not objected because the Georgia records confirm that his aggravated assault conviction remained in the books. *No. 13*. In these circumstances, McHan can't show the prejudice needed to make out a substantial ineffective assistance claim; so *Martinez/Trevino* provides him no help. Recommendation, *No. 12*, adopted in full. McHan's *habeas* petition will be dismissed with prejudice. No certificate of appealability will issue. 28 U.S.C. § 2253(c).

So Ordered.

D.P. Marshall Jr.
D. P. Marshall Jr.
United States District Judge

25 April 2017