

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

MARVIN D. NAYLOR

PETITIONER

V.

CIVIL ACTION NO. 3:17-CV-2-DPJ-FKB

WILLIAM D. "BILLY" SOLLIE

RESPONDENT

ORDER

This habeas corpus proceeding is before the Court on the Report and Recommendation [9] ("R&R") of United States Magistrate Judge F. Keith Ball. Judge Ball recommends dismissal, to which Petitioner Marvin D. Naylor objects [10]. The Court finds that the R&R should be adopted as the Court's opinion.

In simple terms, Naylor says he has been denied the right to a speedy trial. According to him, he was arrested some 21 months ago on drug and firearm charges, yet he has not been tried. Understandably aggrieved by that delay, Naylor filed a petition in this Court under 28 U.S.C. § 2241, seeking dismissal of those charges or, alternatively, that he be released on a reasonable bond. Judge Ball concluded that Naylor had not exhausted his bond-related claim and dismissal of his state charges is not available under § 2241. *See* R&R [9] at 1. In his Objection, Naylor addresses the dismissal recommendation but skips the bond-related recommendation. *See* Obj. [10] at 1–2. The bond-related recommendation is therefore adopted as unopposed.

As for the speedy-trial claim, Judge Ball correctly noted that a petitioner may not seek dismissal of state charges under § 2241 based on speedy-trial violations. R&R [9] at 1 (citing *Brown v. Estelle*, 530 F.2d 1280, 1283 (1976)). Naylor disagrees, stating that he has "yet to find this claim in law." Obj. [10] at 1. But Naylor overlooks *Brown v. Estelle*, the binding precedent Judge Ball cited. And *Brown* is not the only Fifth Circuit opinion reaching that same conclusion.

See, e.g., Dickerson v. State of La., 816 F.2d 220, 227 (5th Cir. 1987) (affirming denial of habeas corpus relief where petitioner sought dismissal of state-court conviction on speedy-trial grounds and no special circumstances existed).

Naylor spends the rest of his Objection explaining why the delay in his prosecution violates his speedy-trial rights and Mississippi law. He might be right. But that is a question for his state-court judge. As stated, this Court cannot dismiss pending state-court charges based on the Sixth Amendment absent special circumstances not present here. *Brown*, 530 F.2d at 1283. So while Naylor should pursue this argument in state court, this Court adopts Judge Ball's R&R and dismisses the Petition [1].

A separate judgment will be entered in accordance with Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED this the 4th day of August, 2017.

s/ Daniel P. Jordan III
UNITED STATES DISTRICT JUDGE