

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

TORENO L. GRIFFIN, JR.

PETITIONER

V.

CIVIL ACTION NO. 3:17-CV-802-DPJ-FKB

BILLY SOLLIE, SHERIFF

RESPONDENT

ORDER

This action for writ of habeas corpus pursuant to 28 U.S.C. § 2241 is before the Court on the Report and Recommendation [10] of Magistrate Judge F. Keith Ball. Petitioner Toreno L. Griffin, Jr. claims he has been held as a pretrial detainee at the Lauderdale County Detention Facility for over 270 days without indictment. He asks the Court to see that he is brought to trial or dismiss the charges.

On December 4, 2017, Defendant Billy Sollie moved to dismiss the petition. Mot. [8]. Sollie first contends that a petition for federal habeas corpus relief is not the proper avenue to seek dismissal of the state charges prior to conviction. *Id.* at 3–4 (citing *Brown v. Estelle*, 530 F.2d 1280, 1283 (5th Cir. 1976)). And to the extent Griffin is attempting to force the state to go to trial, Sollie contends he must first exhaust any available state remedies. Mot. [8] at 3–7 (citing *Dickerson v. State*, 816 F.2d 220, 225 (5th Cir. 1987); *Brown*, 530 F.2d at 1283). Griffin did not respond in opposition to the motion, and Judge Ball recommended dismissal of the petition for failure to exhaust. R. & R. [10] at 1–2. Griffin has not filed an objection, and the time to do so has passed.

Accordingly, the Court adopts the unopposed Report and Recommendation [10] of the magistrate judge. Respondent's motion to dismiss [8] is granted; this action is dismissed without prejudice for failure to exhaust.

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

58.

SO ORDERED AND ADJUDGED this the 3rd day of April, 2018.

s/ Daniel P. Jordan III

CHIEF UNITED STATES DISTRICT JUDGE