
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

TELASA CLARK,

Petitioner,

versus

CHARLES A. DANIELS,

Respondent.

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CIVIL ACTION NO. 1:14-CV-315

**MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Petitioner Telasa Clark, a prisoner confined at the United States Penitentiary in Beaumont, Texas, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court ordered that this matter be referred to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the petition.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. Petitioner may not pursue habeas relief under § 2241 because his claims do not meet the requirements set forth in *Reyes-Requena v. United States*, 243 F.3d


893, 904 (5th Cir. 2001). Petitioner contends that his conviction is invalid in light of *Alleyne v. United States*, __ U.S. __ , 133 S. Ct. 2151 (2013), because his sentence was enhanced based on the district court's findings. *Alleyne* addresses sentencing issues. It is not a retroactively available Supreme Court decision indicating that petitioner was convicted of a non-existent offense. *Whittaker v. Chandler*, __ F. App'x __ , 2014 WL 2940499, at *1 (5th Cir. July 1, 2014); *Martindale v. Chandler*, __ F. App'x __ , 2014 WL 2767533, at *1 (5th Cir. June 19, 2014).

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

Signed this date.

Aug 4, 2014



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE