

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

WALTER CHARLES JONES

§

VS.

§ CIVIL ACTION NO. 1:16-CV-2

LEONARD GIBLIN

§

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

Petitioner Walter Charles Jones, a prisoner confined at the Eastham Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, brought this petition for writ of mandamus pursuant to 28 U.S.C. § 1651.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, 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 denying the petition.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. 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 of all the pleadings and the relevant case law, the court concludes that petitioner's objections lack merit. Petitioner requests an order requiring Judge Leonard Giblin to rule on a motion pending in petitioner's state criminal case. However, this court has no authority to issue a writ of mandamus to direct a state court or

judicial officer to perform his duties. *Moye v. DeKalb County Superior Court*, 474 F.2d 1275, 1276 (5th Cir. 1973).

ORDER

Accordingly, petitioner's objections (document no. 4) are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge (document no. 2) is **ADOPTED**. A final judgment will be entered in this case in accordance with the report. A certificate of appealability will not be issued.

So **ORDERED** and **SIGNED** this 1 day of **June, 2016**.



Ron Clark, United States District Judge