

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

DONALD GENE SHELBY, #1839844 §
VS. § CIVIL ACTION NO. 4:14cv802
DIRECTOR, TDCJ-CID §

ORDER OF DISMISSAL

Petitioner Donald Gene Shelby, an inmate confined in the Texas prison system, proceeding *pro se*, filed the above-styled and numbered petition for a writ of habeas corpus challenging his Fannin County felony driving while intoxicated conviction pursuant to 28 U.S.C. § 2254. The cause of action was referred to United States Magistrate Judge Don D. Bush, who issued a Report and Recommendation concluding that the petition is time-barred. The Petitioner has filed objections.

The Report of the Magistrate Judge, which contains his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the Petitioner's objections are without merit. It is specifically noted that his objections erroneously focused on the deference that must be accorded to state court decisions on the merits under 28 U.S.C. § 2254(d), as opposed to the statute of limitations as provided by 28 U.S.C. § 2244(d). He has not shown that the petition should not be dismissed as time-barred. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. It is further

ORDERED that a certificate of appealability is **DENIED**. It is finally
ORDERED that all motions not previously ruled on are hereby **DENIED**.
SIGNED this 20th day of April, 2015.

A handwritten signature in black ink, reading "Amos Mazzant". The signature is written in a cursive style with a horizontal line underneath it.

AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE