

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

TYLER DIVISION

BENJAMIN CAPPS, #1717573

§

VS.

§

CIVIL ACTION NO. 6:14cv877

DIRECTOR, TDCJ-CID

§

ORDER OF DISMISSAL

Petitioner Benjamin Capps, a prisoner confined in the Texas prison system, proceeding *pro se*, filed the above-styled and numbered petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his Gregg County conviction for felony driving while intoxicated. The petition was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the petition should be denied. The Petitioner has filed objections.

The Report and Recommendation of the Magistrate Judge, which contain 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 Petitioner, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. The Court thus adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #35) is **ADOPTED**. It is further


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 **DENIED**.

It is **SO ORDERED**.

SIGNED this 3rd day of August, 2015.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE