

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

TREVOR XAVIER SCHENDEL, #2051305       §  
VS.                                                       §                               CIVIL ACTION NO. 6:17cv523  
DIRECTOR, TDCJ-CID                               §

ORDER ADOPTING REPORT AND RECOMMENDATION

Petitioner Trevor Xavier Schendel, a prisoner currently confined in the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed his petition for writ of habeas corpus (Dkt. #1), pursuant to 28 U.S.C. § 2254, seeking to challenge his felony conviction, revocation hearing, and state habeas proceedings on various grounds. Petitioner ultimately seeks to have his underlying plea agreement set aside and to be released from custody. The above-styled and numbered civil action was heretofore referred to United States Magistrate Judge K. Nicole Mitchell. The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration.

During the pendency of Mr. Schendel's petition for writ of habeas corpus, he filed a Motion for Writ of Mandamus. (Dkt. #46). In his petition for a writ of mandamus, Mr. Schendel seeks to have United States Magistrate Judge K. Nicole Mitchell ordered to: (1) award Mr. Schendel "flat-time" credits and compensation for his alleged "unlawful" incarceration, (2) enter an order acquitting Mr. Schendel of the crimes brought against him, (3) order his immediate, unconditional release from prison, (4) release Mr. Schendel on his own recognizance as he is not a flight risk, (5) award him nominal, actual, and punitive damages, (6) order the Clerk of the Court to provide Petitioner, free of charge, a copy of his Texas records, (7) enter a partial final judgment, (8) award Petitioner restitution for his *pro*

*se* legal services, (9) award Petitioner a change of venue for his criminal case to any county that is not Smith County, (10) order the appropriate state official to issue a warrant for the release of state funds to pay the judgment/monies that should be awarded to him, and (11) in the alternative, if the Court chooses not to grant Mr. Schendel an acquittal at this time, that the court close his case for 6 months so that he may collect evidence and obtain professional counsel.

The motion was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that Mr. Schendel's motion for writ of mandamus was without merit and should be denied. (Dkt. #46). The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of the motion, has been presented for consideration, and no objections thereto having been timely filed, the court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and adopts same as the findings and conclusions of the court. It is accordingly

**ORDERED** that the Report and Recommendation (Dkt. #46) is **ADOPTED**. It is further

**ORDERED** that Mr. Schendel's motion for writ of mandamus (Dkt. #44) is **DENIED** in accordance with the Report and Recommendation (Dkt. #46).

**So Ordered and Signed**

Oct 11, 2018



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Ron Clark, Senior District Judge