

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

JERMAINE RAY GORDY, #2192339 §
VS. § CIVIL ACTION NO. 6:20cv380
DIRECTOR, TDCJ-CID §

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Jermaine Ray Gordy, a prisoner confined within the Texas Department of Criminal Justice proceeding pro se, filed this petition for writ of habeas corpus under 28 U.S.C. § 2254. The cause of action was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for the disposition of the petition.

On November 30, 2022, Judge Love issued a Report recommending that Petitioner's habeas petition be dismissed. Docket No. 13. Specifically, Judge Love recommended that Petitioner's unexhausted claims be dismissed without prejudice, and the exhausted claims be dismissed with prejudice. He further recommended that Petitioner be denied a certificate of appealability sua sponte. A copy of the Report was mailed to Petitioner, with an acknowledgment card. The docket reflects that Petitioner received a copy of the Report on December 5, 2022. Docket No. 14.

The Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United*

Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten days to fourteen days).

Here, Petitioner has not filed objections. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 13) as the findings of this Court. Therefore, it is

ORDERED that Petitioner's habeas petition is **DISMISSED**. Petitioner's unexhausted claims are **DISMISSED** without prejudice and the exhausted claims are **DISMISSED** with prejudice. Petitioner is further **DENIED** a certificate of appealability sua sponte. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this 16th day of **January, 2023**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE