

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

LAZARUS BLUE,

Petitioner,

v.

LORIE DAVIS, *Director*, TDCJ-CID,

Respondent.

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Civil Action No. **3:17-CV-2896-L-BT**

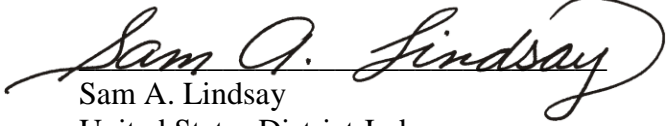
ORDER

Before the court is Lazarus Blue’s (“Petitioner”) Petition for Writ of Habeas Corpus (Doc. 3), filed October 20, 2017. No response to the petition was filed.

On June 28, 2018, United States Magistrate Judge Rebecca Rutherford entered the Findings, Conclusions, and Recommendation of the United States Magistrate Judge (“Report”), recommending that the court deny the petition for failure to exhaust the petition. No objections to the Report were made.

Having reviewed the record in this case, Report, and applicable law, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. As the magistrate judge correctly held, Petitioner failed to exhaust state remedies pursuant to 28 U.S.C. § 2254(b) because he failed to present his claims to the Texas Court of Criminal Appeals in a petition for discretionary review and failed to file an application for writ of habeas corpus in state court. Further, Petitioner has not shown the court that any circumstances exist to render these state remedies ineffective to protect his rights. *See* 28 U.S.C. § 2254(b)(1)(B)(ii). Accordingly, the court **denies** the Petition and **dismisses without prejudice** this action for failure to exhaust state remedies.

It is so ordered this 25th day of September, 2018.


Sam A. Lindsay
United States District Judge