

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RICKEY L. MCGEE,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Respondent.

§
§
§
§
§
§
§
§
§

No. 3:20-CV-1415-X-BN

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE
JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. [Doc. No. 66]. Specifically, the Magistrate Judge denied McGee’s motion for relief from the Court’s February 28, 2022 judgment [Doc. No. 61], motion for an evidentiary hearing [Doc. No. 60], motion for court-appointed counsel [Doc. No. 62], motion to extend the time limit to file any responsive briefs [Doc. No. 63], and motion to stay the proceedings [Doc. No. 65]. McGee raises two objections.

First, he asserts that he “did exhaust [his] claims.”¹ But the Magistrate Judge’s recommendation didn’t hinge on McGee’s failure to exhaust. In fact, the Magistrate Judge denied McGee’s “motion to stay the proceedings to allow him to

¹ Doc. No. 68 at 1.

exhaust state remedies” because “[t]here are no ongoing proceedings to ‘stay.’”² Second, he claims the prosecutor in his case made “inflammatory closing arguments” and that the Court has never reviewed the state court’s denial of that claim on the merits.³ Similarly, he contends that his “counsel was ineffective” in his initial collateral proceeding.⁴ But McGee doesn’t provide any detail beyond those conclusory statements. Accordingly, he hasn’t met his burden of “showing [] unusual or unique circumstances justifying” the “extraordinary relief afforded by Rule 60(b).”⁵

The Court reviewed *de novo* those portions of the proposed findings, conclusions, and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. Finding none, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge. Accordingly, considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b) and Rule 11(a) of the Rules Governing Section 2254 Proceedings in the United States District Court, and 28 U.S.C. § 2253(c), the Court **DENIES** McGee’s Rule 60(b) motion [Doc. No. 61], his Motion for an Evidentiary Hearing [Doc. No. 60]; his Motion to Appoint Counsel [Doc. No. 62]; his Motion for Extension of Time [Doc. No. 63]; and his Motion for a Stay in the Proceedings [Doc. No. 65].

² Doc. No. 66 at 12.

³ Doc. No. 68 at 1.

⁴ *Id.* at 3.

⁵ *Wallace v. Magnolia Family Servs., L.L.C.*, No. 13-4703, 2015 WL 61321604, at *2 (E.D. La. Mar. 24, 2015).

IT IS SO ORDERED this 21st day of February, 2023.

A handwritten signature in black ink, appearing to read "Brantley Starr". The signature is written in a cursive style with a large initial "B".

BRANTLEY STARR
UNITED STATES DISTRICT JUDGE