

United States District Court
Southern District of Texas

ENTERED

August 09, 2017

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

ORLANDO REYES,	§	
	§	
Petitioner,	§	
VS.	§	CIVIL NO. 2:15-CV-454
	§	
WILLIAM STEPHENS,	§	
	§	
Respondent.	§	

ORDER

Orlando Reyes (“Reyes”) is a Texas state prisoner, whose habeas claims under 28 U.S.C. § 2241 and 2254 were filed with the Court on October 27, 2015. Dkt. No. 1. The Court has before it the Government’s motion for summary judgment, Dkt. No. 24, Reyes’ response, Dkt. No. 27, the Memorandum and Recommendation (“M&R”) of the magistrate judge to whom this case was referred, Dkt. No. 28, and Reyes’s objections to the M&R, Dkt. No. 32.

The Court adopts the M&R’s recitation of the background of this case. Dkt. No. 28 at 2-6. In brief, Reyes alleges that his constitutional rights were violated during trial and appellate proceedings related to his 2012 conviction, by a Nueces County jury, of the lesser included offense of indecency with a child. *See* Dkt. Nos. 1, 28 at 1-6. Reyes is serving a fifty-year term in the Texas Department of Criminal Justice – Correctional Institutions Division (“TDCJ-CID”) for this conviction, enhanced by prior convictions, and is currently incarcerated at the Stiles Unit in Beaumont, Texas. Dkt. No. 28 at 1.

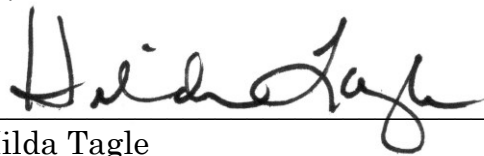
The Court reviews objected-to portions of a magistrate judge’s proposed findings and recommendations de novo. 28 U.S.C. 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made”); Fed. R. Civ. P. 72(b)(3). In both his federal habeas petition and his response to the Government’s instant motion, Reyes alleges various constitutional violations, including claims

that insufficient evidence was used to convict him, and that he received ineffective assistance of counsel at trial and on direct appeal. Dkt. No. 28 at 6. Yet Reyes's objections to the M&R contain no real challenge to the proceedings below, and largely restate the claims raised in his response to the Government's motion. *Compare* Dkt. Nos. 27 and 32. The Court agrees with the M&R that Reyes has failed to state a claim that he is entitled to relief under 28 U.S.C. § 2254(d).

Accordingly, after independently reviewing the record and considering the applicable law, the Court adopts the M&R's proposed findings and recommendations; **GRANTS** the Government's motion for summary judgment, Dkt. No. 24; **DENIES** Reyes's petition for a writ of habeas corpus, Dkt. No. 1; and **DENIES** Reyes a certificate of appealability. The Court further **DIRECTS** the Clerk to close this case after entering the accompanying judgment.

It is so **ORDERED**.

SIGNED this 9th day of August, 2017.

A handwritten signature in black ink, appearing to read "Hilda Tagle", written over a horizontal line.

Hilda Tagle
Senior United States District Judge