

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TEXAS, TEXARKANA DIVISION

Don McCain v. Director, TDCJ-CID

McCain · No. 5:25-CV-153-RWS-JBB · Decided February 25, 2026

SUMMARY

The United States District Court for the Eastern District of Texas dismissed Don McCain’s 28 U.S.C. § 2254 habeas petition without prejudice because he had not exhausted his claims in the Texas Court of Criminal Appeals. The court adopted the magistrate judge’s report and recommendation, overruled McCain’s objections, and denied a certificate of appealability sua sponte.

CASE DETAILS

COURT	United States District Court for the Eastern District of Texas, Texarkana Division
WRITING FOR THE COURT	Robert W. Schroeder III
JURISDICTION	United States District Court for the Eastern District of Texas, Texarkana Division
DECIDED	February 25, 2026
DOCKET	5:25-CV-153-RWS-JBB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Federal habeas petition under 28 U.S.C. § 2254; petitioner objected to a magistrate judge's recommendation that the petition be dismissed for failure to exhaust state remedies.
STANDARD OF REVIEW	De novo review of the portions of the magistrate judge's proposed findings and recommendations to which objection was made, under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	unknown
PARTIES	Don McCain v. Director, TDCJ-CID

TOPICS

- federal habeas corpus
- state post-conviction relief
- post-conviction relief
- appellate procedure
- standard of review

PRACTICE AREAS

Federal habeas corpus

State post-conviction relief

Criminal procedure

Appellate procedure

QUESTIONS PRESENTED

1. Whether McCoin exhausted available state remedies before seeking federal habeas relief under 28 U.S.C. § 2254.
2. Whether the magistrate judge's recommendation to dismiss the petition for failure to exhaust should be adopted.

HOLDINGS

1. McCoin failed to exhaust his state remedies because he did not fairly present his claims to the Texas Court of Criminal Appeals, the highest available state court in Texas.

KEY QUOTATIONS

“Because Petitioner did not appeal his claims to the Texas Court of Criminal Appeals, he has not presented his claims to the highest court in the state of Texas, and the Magistrate Judge correctly determined that he did not exhaust his state remedies.” (Page 3)

“Accordingly, it is ORDERED that the Report and Recommendation of the Magistrate Judge (Docket No. 21) is ADOPTED as the opinion of the District Court.” (Page 3)

FACTUAL BACKGROUND

McCoin challenged a June 2023 Red River County, Texas conviction that he described as aggravated assault with a deadly weapon and family violence. He alleged that counsel pressured him to plead guilty, failed to investigate his arrest, and that he lacked adequate notice of court appearances. He filed two state habeas petitions under Texas Code of Criminal Procedure article 11.072, but neither denial was appealed to the Texas Court of Criminal Appeals.

PROCEDURAL HISTORY

McCoin filed a federal petition challenging his Texas conviction. The petition was referred to Magistrate Judge J. Boone Baxter, who recommended dismissal for failure to exhaust state remedies. McCoin filed objections. After de novo review, the district court adopted the Report and Recommendation, dismissed the petition without prejudice, and denied a certificate of appealability sua sponte.

DISPOSITION

dismissed

CASES CITED

- Nickleson v. Stephens, 803 F.3d 748, 753 (5th Cir. 2015)

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