

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

WO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Glen Russell Wingfield,)
)
) Petitioner,)
 vs.)
)
 Charles L. Ryan. et al.,)
)
) Respondents.)
_____)

No. CV-09-1385-PHX-PGR (MHB)

ORDER

Having reviewed *de novo* the Report and Recommendation of Magistrate Judge Burns notwithstanding that no party has filed any objection to the Report and Recommendation, the Court finds that the Magistrate Judge correctly determined that the petitioner’s habeas petition, filed pursuant to 28 U.S.C. § 2254, must be dismissed because it was filed after the AEDPA’s one-year limitations period had expired.¹ See 28 U.S.C. § 2244(d)(1). Therefore,

IT IS ORDERED that the Magistrate Judge’s Report and Recommendation (doc. #13) is accepted and adopted by the Court.

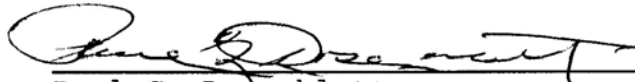
IT IS FURTHER ORDERED that the petitioner’s Petition for Writ of Habeas

_____)
1

The Court also agrees with the Magistrate Judge’s alternative determination that the habeas petition is also subject to dismissal pursuant to 28 U.S.C. § 2244(b)(1)(A) because the petitioner’s sole claim was never raised in state court and is thus unexhausted.

1 Corpus by a Person in State Custody Pursuant to 28 U.S.C. 2254 is denied as
2 time-barred and that this action is dismissed with prejudice. The Clerk of the
3 Court shall enter judgment accordingly.

4 IT IS FURTHER ORDERED that no certificate of appealability shall issue.
5 DATED this 25th day of January, 2010.

6
7
8 
9 Paul G. Rosenblatt
United States District Judge

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26