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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Edward Faye Parks,  
Petitioner,  
vs.  
Charles L. Ryan, et al.,  
Respondents.

No. CV-13-08108-PCT-DLR  
**ORDER**

Following a jury trial in Mohave County Superior Court in 2012, Petitioner Edward Faye Parks was found guilty of two counts of aggravated assault and one count of disorderly conduct with a weapon. The trial court sentenced Mr. Parks to concurrent sentences, the longest of which is 15.75 years.

Mr. Parks filed a petition for writ of habeas challenging his convictions on multiple grounds. (*See* Doc. 8 at 6–8.) The Court referred the petition to United States Magistrate Judge David K. Duncan for report and recommendation ("R&R"). (*See* Doc. 2.) Judge Duncan recommended that the Court dismiss the petition without prejudice because Mr. Parks has not exhausted state remedies. (Doc. 20 at 2.)

Mr. Parks filed objections to the R&R. (Doc. 22.) For the reasons that follow, the Court will accept the R&R's conclusions and dismiss the petition without prejudice.

**I. Standard of Review.**

A party may file specific written objections to the R&R's proposed findings and recommendations. The Court must undertake de novo review of those portions of the

1 R&R to which specific objections are made. The Court may accept, reject, or modify, in  
2 whole or in part, the findings or recommendations made by the Magistrate Judge.  
3 Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1).

4 **II. Analysis.**

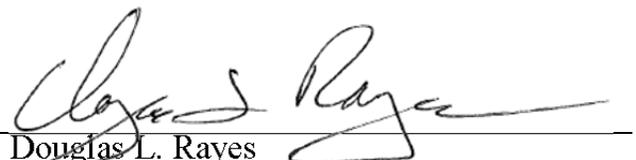
5 Mr. Parks objects to the finding in the R&R that he has not exhausted state  
6 remedies. (Doc. 22 at 2.) Mr. Parks claims that *he* has not failed to exhaust state  
7 remedies and states that “it’s the fault of appointed counsel.” (*Id.*) In other words, Mr.  
8 Parks does not dispute that a petition for post-conviction relief is pending in state court,  
9 but appears to take issue with the pace at which that case is proceeding. (*Id.*; *see also*  
10 Docs. 24, 25.) Because Mr. Parks’ initial post-conviction proceedings are still pending in  
11 Mohave County Superior Court, the Court agrees with Judge Duncan’s finding that Mr.  
12 Parks’ habeas petition is premature. Accordingly,

13 **IT IS ORDERED** that Judge Duncan’s R&R (Doc. 20) is **ACCEPTED**.

14 **IT IS FURTHER ORDERED** that Edward Faye Parks’ Amended Petition is  
15 dismissed without prejudice.

16 **IT IS FURTHER ORDERED** that a certificate of appealability and leave to  
17 proceed *in forma pauperis* are **DENIED** because dismissal of the Petition is justified by a  
18 plain procedural bar and jurists of reason would not find the ruling debatable.

19 Dated this 23rd day of September, 2014.

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24 Douglas L. Rayes  
25 United States District Judge  
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