Long v. Ryan et al
Doc. 17

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

John L.J. Long, Petitioner, vs. Charles L. Ryan, et al., Respondents.	No. CV 11-686-TUC-FRZ **ORDER**

Before the Court for consideration is a Petition for Writ of Habeas Corpus brought pursuant to 28 U.S.C. § 2254, *pro se*, by Petitioner John L.J. Long, who is confined in the Arizona State Prison Complex, Winchester Unit, in Tucson, Arizona and the Report and Recommendation of Magistrate Judge Charles R. Pyle, recommending that the District Court, after its independent review, deny the Petition.

Petitioner was convicted in Pima County Superior Court of three counts of armed robbery, theft of the means of transportation, and two counts of robbery. He was sentenced to a term of a total of 21.75 years of imprisonment.

Petitioner raises six grounds for relief: Grounds One through Four allege that Petitioner received ineffective assistance of counsel in violation of his Sixth and Fourteenth Amendment rights. Grounds Five and Six, allege violations of Petitioner's Due Process rights under the Fifth and Fourteenth Amendments based on the imposition of consecutive sentences and consideration of invalid factors at sentencing.

Respondents filed an answer to the Petition, to which Petitioner filed a reply.

Dockets.Justia.com

This matter was referred to Magistrate Judge Charles R. Pyle, pursuant to the provisions of 28 U.S.C. § 636(b), Rule 72, Fed.R.Civ.P., and Local Rules 72.1 and 72.2 of the Rules of Practice of the United States District Court for the District of Arizona, for further proceedings and Report and Recommendation.

Magistrate Judge Pyle issued his Report and Recommendation, recommending:

> . . . that the District Court, after its independent review, enter an Order: (1) finding that Petitioner's federal habeas petition was timely filed; (2) denying Petitioner's Grounds One through Four on the merits; and (3) finding that Grounds Five and Six are not cognizable grounds for federal habeas relief but if considered as cognizable claims, denying Grounds Five and Six on the merits.

The Report and Recommendation sets forth a thorough factual background and legal analysis of the claims and standards at issue.

The Report and Recommendation further advised, in relevant part, that:

> Pursuant to 28 U.S.C. § 636(b), any party may serve and file written objections within fourteen (14) days of being served with a copy of the Report and Recommendation.. . . If objections are not timely filed, they may be deemed waived.. . .

No objections were filed.

The Court finds, after consideration of all matters presented and an independent review of the record herein, including the Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus (Doc. 1); Answer to Petition for Writ of Habeas Corpus (Doc. 11); Reply to Respondents Answer (Doc. 13) and the Report and Recommendation (Doc 16), that the Petition for a Writ of Habeas Corpus shall be denied and this action be dismissed in accordance with the Report and Recommendation.

Based on the foregoing,

IT IS HEREBY ORDERED that the Report and Recommendation (Doc. 16) is hereby **ACCEPTED** and **ADOPTED** as the findings of fact and conclusions of law by this Court;

IT IS FURTHER ORDERED that the Petition for Writ of Habeas Corpus (Doc. 1) is **DENIED** and this action is hereby **DISMISSED***;*

IT IS FURTHER ORDERED that the Clerk of Court is directed to enter judgment accordingly.

DATED this 31st day of March, 2015.

Frank R. Zapata
Senior United States District Judge