

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

BERNARD JONES

PETITIONER

V.

CASE NO. 10-CV-4096

STATE OF ARKANSAS

DEFENDANT

ORDER

Before the Court is the Report and Recommendation filed January 5, 2011, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (Doc. 12). Judge Bryant recommends that Petitioner Bernard Jones's Petition for Writ of Habeas Corpus (Doc. 1) be dismissed with prejudice. Jones has responded with a notice of appeal, which the Court has construed as his objections to the Report and Recommendation.¹ (Doc. 13).

Jones alleges the following errors in his state court criminal proceeding: (1) ineffective assistance of counsel; (2) petitioner did not knowingly and voluntarily waive his right to appeal; (3) unconstitutional search and seizure of evidence; (4) unlawful arrest; (5) denial of a fair and impartial trial; and (6) denial of due process of law. In the Report and Recommendation, Judge Bryant found that Jones waived his rights to raise the issues presented because he knowingly and voluntarily pled guilty in the underlying criminal action. Judge Bryant also found that Jones was procedurally barred by an independent state procedural rule from presenting his claims in state court. Further, Judge

¹Petitioner should note that he filed the notice of appeal prematurely and that the Court construed this document as his objection to the Report and Recommendation and not as a notice of appeal.

Bryant found that Jones failed to establish cause for the procedural default and failed to establish that new and reliable evidence exists that tends to show actual innocence; therefore, Jones's habeas petition should be denied and dismissed with prejudice.

Jones states that he "object[s] and give[s] notice to appeal the disposition ... and recommendation." (Doc. 13). Jones's objection is a general objection and does not meet the requisite specificity to invoke *de novo* review.² Nevertheless, the Court has conducted a *de novo* review of the entire file, including all matters relevant to the petition. After careful consideration, the Court adopts the thorough reasoning of Magistrate Judge Bryant and will dismiss Jones's habeas petition for the reasons stated in the Report and Recommendation dated January 5, 2011 (Doc. 12). Accordingly, Jones's general objection to the Report and Recommendation is overruled.

For reasons stated herein and above, as well as those contained in Judge Bryant's Report and Recommendation (Doc. 12), Petitioner Jones's Petition for Writ of Habeas Corpus (Doc. 1) is **DENIED** and **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED, this 10th day of May, 2011.

/s/ Harry F. Barnes
Hon. Harry F. Barnes
United States District Judge

²A general objection that errors were made does not constitute an objection "to *those portions* of the report or *specified* proposed findings or recommendations." See 28 U.S.C. § 636(b)(1) (emphasis added).