

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

CATHERYNNE W. KENDRICK

PLAINTIFF

v.

Civil No. 08-5151

JUDGE STEPHEN THOMAS and
WARDEN JOHN A. MAPLES

DEFENDANTS

O R D E R

Now on this 19th day of February, 2009, comes on for consideration the Magistrate Judge's **Report And Recommendation** (document #5), and plaintiff's **Reply** thereto (document #6), and from said documents the Court finds and orders as follows:

1. The Magistrate Judge reported that plaintiff brought this habeas corpus petition for release from incarceration under sentences from the Circuit Courts of Benton and Washington Counties, Arkansas, for hot check convictions relating to hot checks written in 2003. He further reported that defendant Judge Stephen Thomas presides over the Siloam Springs Division of the Benton County District Court, and that there is no evidence plaintiff is in custody pursuant to a sentence imposed by Judge Thomas.

The Magistrate Judge also reported that plaintiff had not shown exhaustion of her state court remedies, and that the statute of limitations on her habeas claim has expired. He recommended that plaintiff's claim be dismissed with prejudice.

2. Plaintiff's Reply does not offer any basis to reject the Report And Recommendation. Indeed, plaintiff therein concedes that she is not in custody pursuant to any action of Judge Thomas. She makes a variety of allegations against other people -- and though she may have claims against them, the Court makes no finding as to that -- but she clearly has no claim against Judge Thomas. Her claim against him will, therefore, be dismissed.

3. Warden John A. Maples has custody of plaintiff, and in the absence of any basis for relief on the claim against Judge Thomas, there is no basis for relief on the claim against Warden Maples in this case. Plaintiff's claim against against Warden Maples will, therefore, be dismissed as well.

IT IS THEREFORE ORDERED that the **Report And Recommendation** is **adopted in toto**, and the objections thereto asserted in plaintiff's **Reply** are **overruled**.

IT IS FURTHER ORDERED that, for the reasons stated in the **Report And Recommendation**, plaintiff's claims are **dismissed with prejudice**.

IT IS SO ORDERED.

/s/Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE