

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

JUSTIN RYAN HOULE,

Petitioner,

v.

STEVE ROBERTS, Superintendent,

Respondent.

Civil Action 7:10-CV-66 (HL)

28 U.S.C. § 2254

ORDER

The Order and Recommendation (Doc. 17) of United States Magistrate Judge Thomas Q. Langstaff, entered July 12, 2011, is before the Court. Magistrate Judge Langstaff denied Respondent's Motion to Sever and recommended that Respondent's Motion to Dismiss be denied.

Respondent has filed an objection to the Order and Recommendation. Respondent contends that the Magistrate Judge erred in concluding that severance was not required, and further states that once the claims are severed, certain grounds in the § 2254 petition should be dismissed as untimely.

The Court finds no error in the Magistrate Judge's Order and Recommendation. Rule 2(e) of the Rules Governing § 2254 Cases states: "A petitioner who seeks relief from judgments of more than one state court must file a separate petition covering the judgment or judgments of each court." Here, the petition concerns judgments from only one state court, the Superior Court of Irwin

County, and all of the judgments are under the same case number from that Superior Court. While the Court understands Respondent's policy concerns, the language of Rule 2(e) is clear, and the Court is bound by that rule as it is written. The Motion to Sever was properly denied, and as the claims asserted by Petitioner have not been severed, the Motion to Dismiss must be denied as well.

The Court accepts and adopts the Order and Recommendation (Doc. 17). Respondent's objection (Doc. 18) is overruled. The Motion to Sever and Dismiss Grounds as Untimely (Doc. 11) is denied. This case is referred back to Magistrate Judge Langstaff for further proceedings.

SO ORDERED, this the 15th day of August, 2011.

s/ Hugh Lawson
HUGH LAWSON, SENIOR JUDGE

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