

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION at LONDON

ROGER DEAN HALL,)
)
 Petitioner,)
)
 v.)
)
 JAMES DAVID GREEN, Warden of)
 Eastern Kentucky Correctional)
 Complex,)
)
 Respondent.)
)

Case No.
6:17-cv-197-JMH-CJS

**MEMORANDUM OPINION
AND ORDER**

** ** * * *

Roger Dean Hall filed a Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254 [DE 1]. The matter was referred to United States Magistrate Judge Candace J. Smith for initial scrutiny, who ultimately recommended dismissal of the petition [DE 14]. Although afforded the opportunity to do so, Hall has failed to respond. See *Thomas v. Arn*, 474 U.S. 140, 155 (1985).

Magistrate Judge Smith outlined two bases for for her recommendation. [DE 14 at 3-13, PageID #155-165]. at 4-9, PageID #54-9]. First, she found that any claim Combs might have had is time-barred. [*Id.* at 3-9, PageID #155-161]. Second, she found that Hall’s claim fails on the merits. [*Id.* at 9-13, PageID #161-65]. Both are correct, but the first is the stronger of the two.

Hall's judgment became final on December 9, 2009 for federal habeas review purposes. Hall did not file his petition until 2017, running afoul of the one-year statute of limitations under 28 U.S.C. § 2244(d). [*Id.*]. Nor has Hall offered any information to suggest or support equitable tolling. [*Id.* at 8-9, PageID #160-61]. As a result, his petition is time-barred. [*Id.* at 9, PageID #161]. Accordingly, **IT IS ORDERED** herein as follows:

1) That Magistrate Judge Smith's Report and Recommendation, [DE 14], be, and the same hereby is, **ADOPTED** as the Opinion of the Court.

2) That Hall's Petition for a Writ of Habeas Corpus, [DE 1], under 28 U.S.C. § 2254 be, and the same hereby is, **DENIED**.

3) That this action be, and the same hereby is, **DISMISSED and STRICKEN FROM THE DOCKET**; and

4) That no Certificate of Appealability Issue for the reasons stated in Magistrate Judge Smith's Report and Recommendation.

This the 5th day of September, 2019.



Signed By:

Joseph M. Hood *JMH*

Senior U.S. District Judge