

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

CIVIL ACTION NO. 3:11-CV-641-H

CECILIA SANDERS

PETITIONER

v.

JEFFERSON CIRCUIT COURT

RESPONDENT

MEMORANDUM OPINION AND ORDER

One month after the expiration of her five-year probated sentence, Petitioner filed this habeas corpus petition. The Magistrate Judge recommended dismissal on the grounds that Petitioner was no longer “in custody” for purposes of 28 U.S.C. § 2254(a) and that, therefore, this Court lacked jurisdiction to adjudicate her petition. Petitioner has filed objections to the Magistrate Judge’s report. Those objections largely restate her original petition.

There is no dispute that this Court does lack jurisdiction to consider habeas corpus petition where the Petitioner has served her term, as here. Consequently, Petitioner has argued that the Court should “convert” her habeas petition to a civil rights action under 42 U.S.C. § 1983. The Magistrate Judge acknowledged that many courts have construed an otherwise deficient § 2241 petition as having been brought as a civil rights action. However, in our circumstances, the Magistrate Judge found that the statute of limitations would bar such an action. Consequently, the Magistrate Judge recommended dismissal.

The Court agrees with the Magistrate Judge’s sound reasoning. The statute of limitations would bar any civil rights action. Petitioner has not raised any new arguments in her objections.

Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the Magistrate Judge's recommendation is AFFIRMED and Petitioner's complaint is DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that the Certificate of Appealability pursuant to 28 U.S.C. § 2253(c)(2) is DENIED.

This is a final order.

cc: Cecilia Sanders, *Pro Se*
Counsel of Record