

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

CIVIL ACTION NO. 3:13CV-663-H

WARDELL COLEMAN

PETITIONER

v.

GREGORY HOWARD, Warden

RESPONDENT

**MEMORANDUM OPINION AND ORDER**

Petitioner, Wardell Coleman, has filed a federal habeas corpus petition pursuant to 28 U.S. § 2254. He did so without first filing in state court to vacate or otherwise set aside his conviction pursuant to the Kentucky Rules of Criminal Procedure, Rule 11.42. This Court referred the matter to the Magistrate Judge who recommended dismissal without prejudice. Petitioner has filed an objection.

The Court has reviewed the Magistrate Judge's Findings of Fact, Conclusions of Law and Recommendation and agrees with them entirely. Further, the Court does not believe that any further discussion is necessary.

Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommendation of the Magistrate Judge are ADOPTED in full and the Petition is DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the certificate of appealability is DENIED.

October 21, 2013

A handwritten signature in black ink, appearing to read "John G. Heyburn II", is written over a circular seal of the United States District Court. The seal features an eagle with wings spread, perched on a shield, with the words "UNITED STATES DISTRICT COURT" and "MAGNANIMITY JUSTITIAE" around the perimeter.

**John G. Heyburn II, Judge  
United States District Court**

cc: Wardell Coleman, Pro Se  
Counsel of Record  
Magistrate Judge Dave Whalin