

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
PADUCAH DIVISION
CIVIL ACTION NO. 5:20-cv-00139-TBR**

MARK ANTHONY TAYLOR

PETITIONER

v.

ANNA VALENTINE, Warden

RESPONDENT

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Mark Taylor’s *pro se* Motion for Relief of Procedural Time Bar. [DN 18]. Respondent Anna Valentine has responded. [DN 21]. Taylor has replied. [DN 22]. As such, this matter is ripe for adjudication. For the reasons that follow, **IT IS HEREBY ORDERED** that Taylor’s Motion for Relief of Procedural Time Bar [DN 18] is **DENIED**.

I. Background

Taylor filed a petition for writ of habeas corpus on August 20, 2020. [DN 1]. The Court referred the matter to Magistrate Judge Lanny King for a report and recommendation. [DN 5]. Judge King recommended Taylor’s petition be denied due to his claim being procedurally barred. [DN 14]. Taylor objected. [DN 15]. The Court addressed Taylor’s objections and adopted Judge King’s Recommendation [DN 16]. Taylor now seeks relief from this Court’s judgment under Fed. R. Civ. P. 60(b)(3) and (6).

II. Discussion

Fed. R. Civ. P. 60(b)(3) provides relief from a judgment due to “fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party”. Fed. R. Civ. P. 60(b)(6) provides relief for “any other reason that justifies relief.” In his motion, Taylor stated, “[t]he motion before the Court challenged only the district courts prior adverse ruling on the

limitations period under another AEDPA provision. The Petitioner asserting that the district court's prior limitations ruling, was in error." [DN 18 at PageID 434]. However, Taylor never argues why the Court's previous ruling was in error. Instead, he argues the merits of his petition.

Taylor does not argue counsel committed fraud in the present action. [DN 22 at PageID 709]. He argues officers from the Attorney General's office committed such fraud during his trial and his state post-conviction actions. [*Id.*] This argument goes to the merits of his petition and does not address the Court's prior ruling that his petition is time barred.

Taylor has not presented the Court with any other reason that justifies relief from the previous ruling. Taylor filed his petition outside of the one-year statute of limitations and is not entitled to equitable tolling. The Court cannot reach the merits of Taylor's petition due to it being filed untimely. Therefore, the Court will deny Taylor's motion.

III. Conclusion

For the above stated reasons, **IT IS HEREBY ORDERED** that Taylor's Motion for Relief of Procedural Time Bar [DN 18] is **DENIED**.

IT IS SO ORDERED.

The image shows a handwritten signature in black ink that reads "Thomas B. Russell". The signature is written in a cursive style. Behind the signature is a circular seal of the United States District Court for the Eastern District of Kentucky. The seal features an eagle with wings spread, perched on a shield, with the text "UNITED STATES DISTRICT COURT" and "EASTERN DISTRICT OF KENTUCKY" around the perimeter.

**Thomas B. Russell, Senior Judge
United States District Court**

May 21, 2021

cc: Mark Taylor
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