

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

JOSEPH JOHNSON

CIVIL ACTION

VERSUS

NUMBER: 10-3156

BURL CAIN, WARDEN

SECTION: "S"(6)

**ORDER**

The Court, having considered the petition, the record, the applicable law and the Report and Recommendation of the United States Magistrate Judge, and the petitioner's objection to the Magistrate Judge's Report and Recommendation, hereby approves the portion of the Report and Recommendation of the United States Magistrate Judge that finds the petition untimely under 28 U.S.C. § 2244(d)(1)(D) because it was filed more than one year after the factual predicate for petitioner's *habeas corpus* claim could have been discovered, and the statute of limitations was not statutorily or equitably tolled; and adopts that as its opinion in this matter. Therefore,

**IT IS ORDERED** that the petition of Joseph Johnson for issuance of a writ of *habeas corpus* under 28 U.S.C. § 2254, is hereby **DENIED WITH PREJUDICE**.

New Orleans, Louisiana, this 14<sup>th</sup> day of March, 2011.

  
UNITED STATES DISTRICT JUDGE