

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**CLARENCE D. NOBLE**

**CIVIL ACTION**

**versus**

**NO. 11-2866**

**WARDEN LYNN COOPER**

**SECTION: "S" (3)**

**O R D E R**

The Court, having considered the petition, the record, the applicable law, the United States Magistrate Judge's Report and Recommendation, and the petitioner's objections to the Magistrate Judge's Report and Recommendation, hereby approves the United States Magistrate Judge's Report and Recommendation and adopts it as its own opinion.

Petitioner argues that he is entitled to equitable tolling because he was under the influence of "strong medication" related to his purported mental illness that rendered him incapable of understanding his constitutional rights or the time limitations for filing a petition for *habeas corpus*. To establish the effects of his mental illness, including his medication, entitles him to equitable tolling, petitioner must show that the circumstances prevented him from seeking federal *habeas corpus* relief in a timely manner. See Smith v. Johnson, 2001 WL 43520, at \*3 (5th Cir. 1/3/2001). As noted by the Magistrate Judge, petitioner was capable of filing numerous pleadings in the state court during the relevant time, and thus has not proved that he was incapable of seeking *habeas corpus* relief in the federal court.

Accordingly,

**IT IS ORDERED** that the federal petition of **Clarence D. Noble** for *habeas corpus* relief is **DISMISSED WITH PREJUDICE** as untimely.

New Orleans, Louisiana, this 4th day of April, 2012.

  
UNITED STATES DISTRICT JUDGE