

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

RYAN PATRICK GREEN

CIVIL ACTION

VERSUS

NO. 13-347

BURL CAIN, WARDEN

SECTION "H"(2)

ORDER

The court, having considered the complaint, the record, the applicable law, the Report and Recommendation of the United States Magistrate Judge, and the objection to the Magistrate Judge's Report and Recommendation, hereby approves the Report and Recommendation of the United States Magistrate Judge and adopts it as its opinion in this matter, with the following additions.

In his objection to the Report and Recommendation, Petitioner argues that the period of time between May 12, 2011, and June 21, 2011, should be equitably tolled from the one-year statute of limitations period in 28 U.S.C. § 2244(d)(1). Yet the Magistrate Judge clearly excluded this 39-day period from the limitations period pursuant to 28 U.S.C. § 2244(d)(2). As the Magistrate Judge explained in his well-reasoned opinion, the limitations period was tolled from June 30, 2008, to August 22, 2012, while Petitioner sought post-conviction relief in State court. Because the 39-day period between May 12, 2011, and June 21, 2011, did not count towards the limitations period in 28 U.S.C. § 2244(d)(1), Petitioner's objection lacks merit.

Accordingly;

IT IS ORDERED that the petition of Ryan Patrick Green for issuance of a writ of habeas corpus under 28 U.S.C. § 2254 be **DISMISSED WITH PREJUDICE** as time-barred.

New Orleans, Louisiana, this 29th day of October, 2013.


UNITED STATES DISTRICT JUDGE