

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

STANLEY JULES JOHNSON

CIVIL ACTION

VERSUS

NO. 15-310

BURL CAIN, WARDEN

SECTION "R"

ORDER

Before the Court is Stanley Jules Johnson's petition for federal habeas corpus relief. The Magistrate Judge recommends that Johnson's petition be dismissed without prejudice for failure to exhaust required state remedies. The Magistrate Judge also recommends that the motion for summary judgment filed by the Louisiana Department of Public Safety and Corrections be denied as moot. Having reviewed *de novo* Johnson's petition,¹ the record, the state's motion for summary judgment,² the Magistrate Judge's Report and Recommendation,³ and Johnson's objections,⁴ the Court approves the Report and Recommendation and adopts it as its opinion.

The Magistrate Judge correctly construed Johnson's petition under 28 U.S.C. § 2241 because Johnson "is challenging the manner in which his sentence is being executed rather than the validity of his conviction and sentence." *United States v. Tubwell*, 37 F.3d 175, 177 (5th Cir. 1994); *see also Pack v. Yusuff*, 218 F.3d 448, 451 (5th

¹ R. Doc. 1.

² R. Doc. 13.

³ R. Doc. 15.

⁴ R. Doc. 16.

Cir. 2000). The Magistrate Judge also correctly concluded that Johnson has failed to exhaust available state court remedies on the claims he now asserts in his federal habeas petition. Johnson does not challenge the precedent cited by the Magistrate Judge or raise any arguments disputing the Magistrate Judge's analysis. Instead, he reiterates the allegations in his complaint and contends that the State of Louisiana has "waived its jurisdiction" over petitioner. These submissions are irrelevant to the findings of fact and conclusions of law in the Magistrate Judge's Report and Recommendation.

New Orleans, Louisiana, this 9th day of March, 2016.



SARAH S. VANCE
UNITED STATES DISTRICT JUDGE