

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DOUGLAS ROBERTSON (#91333)

VERSUS

N. BURL CAIN, ET AL

CIVIL ACTION

NO: 10-350-JJB-DLD

RULING

The court has carefully reviewed Douglas Robertson's petition for Writ of Habeas Corpus, the Magistrate Judge's Report, and Petitioner's Written Objections to that report. For the following reasons, the court accepts the Magistrate Judge's recommendation that the petition be dismissed as untimely under 28 U.S.C. § 2244(d). It likewise rejects Petitioner's argument under the "actual innocence" exception applicable to otherwise procedurally-barred habeas petitions.

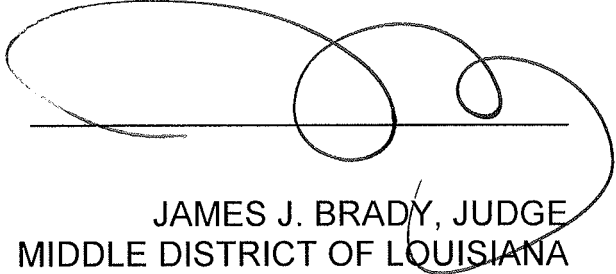
The Magistrate Judge's report concludes that Petitioner's habeas claim is time-barred under the 1 year statute of limitations period provided in 28 U.S.C. § 2244(d). This period began to run for Petitioner after the Court of Appeals for the First Circuit affirmed his conviction on June 12, 2006. It expired well before Petitioner filed for state post-conviction relief on July 23, 2008. Petitioner's "actual innocence" claim is without merit, as he has not alleged the existence of

any new evidence which would have the effect of undermining the original guilty verdict. The Magistrate Judge's report is legally correct. The court adopts its conclusions.

* * *

Accordingly, the petition for Writ of Habeas Corpus shall be DISMISSED, WITH PREJUDICE, as untimely under 28 U.S.C. §2244(d).

Baton Rouge, Louisiana, February 10th, 2011.



JAMES J. BRADY, JUDGE
MIDDLE DISTRICT OF LOUISIANA