

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

STEVON ARCHIE (#439157)

CIVIL ACTION

VERSUS

TERRY TERRELL, ET AL.

NO.: 3:13-cv-00271-BAJ-SCR

ORDER

Before the Court is Petitioner's **PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY (Doc. 1)**. Initially, the Magistrate Judge issued a **REPORT (Doc. 4)** recommending "that the petitioner's application for habeas corpus relief be dismissed, with prejudice, as untimely pursuant to 28 U.S.C. § 2244(d)," (*id.* at p. 8), because it was not filed within one-year of Petitioner's Louisiana conviction for possession of cocaine having become final, and because Petitioner did not otherwise show "that there was a state-created impediment to timely filing a habeas corpus petition or that equitable tolling applies," (*see id.* at pp. 4–7). Petitioner filed timely objections to the Magistrate Judge's Report. (Doc. 5).

Upon review, this Court agreed with the Magistrate Judge's finding that Petitioner did not file his habeas petition within one-year of the date when his state court conviction became final, as required for Petitioner's

habeas petition to be timely under 28 U.S.C. § 2244(d)(1)(A). (Doc. 7 at p. 1). However, noting that Petitioner claimed to have discovered new evidence on November 26, 2011 proving that “he is actually innocent of the offense charged by the East Feliciana Parish District Attorney’s Office,” (Doc. 1-1 at p. 12), this Court remanded to the Magistrate Judge for consideration whether Petitioner’s Petition is timely under § 2244(d)(1)(D), or whether Petitioner otherwise escapes AEDPA’s statute of limitations under the Supreme Court’s analysis in *McQuiggin v. Perkins*, 133 S. Ct. 1924, 1928 (2013), (Doc. 7 at pp. 2–3).

On remand, the Magistrate Judge issued a **SUPPLEMENTAL REPORT (Doc. 8)**, again recommending that Petitioner’s habeas petition be dismissed with prejudice. Petitioner again filed timely objections to the Magistrate Judge’s Supplemental Report. (Doc. 9). Having independently considered Petitioner’s **PETITION (Doc. 1)**, and related filings, the Court **APPROVES** the Magistrate Judge’s **REPORT (Doc. 4)** as supplemented by the Magistrate Judge’s **SUPPLEMENTAL REPORT (Doc. 8)**, and **ADOPTS** it as the Court’s opinion herein.

Accordingly,

IT IS ORDERED that Petitioner's § 2254 Petition is **DISMISSED WITH PREJUDICE** for the reasons explained in the Magistrate Judge's Report (Doc. 4) and Supplemental Report (Doc. 8).

Baton Rouge, Louisiana, this 6th day of January, 2014.

A handwritten signature in blue ink, appearing to read "Brian A. Jackson".

**BRIAN A. JACKSON, CHIEF JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**