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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

BERNARD COOPER

CIVIL ACTION NO. 13-~~1352~~ 0532

VERSUS

JUDGE ROBERT G. JAMES

STATE OF LOUISIANA

MAG. JUDGE KAREN L. HAYES

RULING

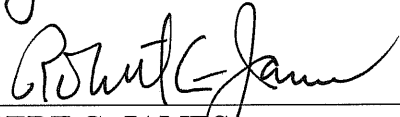
Pending before the Court is a Petition for Writ of *Habeas Corpus*, filed by Petitioner Bernard Cooper (“Cooper”), pursuant to 28 U.S.C. § 2241. Cooper is incarcerated in the Correctional Training Facility, Soledad, California, but is subject to a detainer by the State of Louisiana based on his alleged parole violation. He seeks credit against his Louisiana sentence for the time he is serving in custody in California or dismissal of the Louisiana detainer.

On May 9, 2013, Magistrate Judge Karen L. Hayes issued a Report and Recommendation [Doc. No. 9], recommending that the Court dismiss the Petition with prejudice because Cooper is not “in custody” based on the detainer and he has failed to exhaust his state remedies. Cooper did not file objections.

The Court lacks authority to consider Cooper’s Petition. A § 2241 petition can only be filed in the district in which the petitioner is incarcerated after he has exhausted his state remedies. *See Pack v. Yusuff*, 218 F.3d 448, 451 (5th Cir. 2000) (“A section 2241 petition on behalf of a sentenced prisoner attacks the manner in which a sentence is carried out or the prison authorities’ determination of its duration, and must be filed in the same district where the prisoner is incarcerated.”). While the Court agrees with the Magistrate Judge’s analysis that Petitioner is not in custody for purposes

of § 2241 and that he has not exhausted his state court remedies, the Court cannot consider the Petition. Thus, the Court declines to adopt the Report and Recommendation and will dismiss the Petition without prejudice to Cooper's right to re-file in the correct jurisdiction.

MONROE, LOUISIANA, this 7 day of June, 2013.



ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE