

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FREDMUN WAYNE REYNOLDS,

Petitioner,

v.

BONITA HOFFNER,

Respondent.

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Case No. 1:16-cv-1303

HON. JANET T. NEFF

**OPINION AND ORDER**

This is a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R) recommending that this Court deny the petition as time-barred. The matter is presently before the Court on Petitioner's November 28, 2016 letter to the Court, which was docketed on December 2, 2016 as an Objection to the Report and Recommendation.<sup>1</sup> In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objection has been made. The Court denies the objection and issues this Opinion and Order. The Court will also issue a Judgment in this § 2254 proceeding. *See Gillis v. United States*, 729 F.3d 641, 643 (6th Cir. 2013) (requiring a separate judgment in habeas proceedings).

The Magistrate Judge determined that the relevant limitations period expired in this case on June 28, 2016 and that Petitioner's November 2, 2016 habeas application was therefore time-

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<sup>1</sup> The Court also construed Petitioner's letter as including a request for appointment of counsel, which the Court denied on December 21, 2016 (Order, ECF No. 7).

barred (R&R, ECF No. 5 at PageID.125). In his Objection, Petitioner argues that he “did not think that [he] was late” and emphasizes that he has “no idea what I am doing legally” (Pet’r Obj., ECF No. 6 at PageID.129). Petitioner’s argument fails to demonstrate any factual or legal error in the Magistrate Judge’s analysis or ultimate conclusion. Moreover, as the Magistrate Judge also pointed out, the fact that Petitioner is untrained in the law, was proceeding without a lawyer, or may have been unaware of the statute of limitations does not warrant tolling (R&R, ECF No. 5 at PageID.126, citing *Allen v. Yukins*, 366 F.3d 396, 403 (6th Cir. 2004); *Craig v. White*, 227 F. App’x 480, 482 (6th Cir. 2007); *Harvey v. Jones*, 179 F. App’x 294, 299-300 (6th Cir. 2006); *Martin v. Hurley*, 150 F. App’x 513, 516 (6th Cir. 2005); *Fisher v. Johnson*, 174 F.3d 710, 714 (5th Cir. 1999) (“[I]gnorance of the law, even for an incarcerated pro se petitioner, generally does not excuse [late] filing.”)).

Having determined Petitioner’s objection lacks merit, the Court must further determine pursuant to 28 U.S.C. § 2253(c) whether to grant a certificate of appealability (COA) as to the issues raised. *See* RULES GOVERNING § 2254 CASES, Rule 11 (requiring the district court to “issue or deny a certificate of appealability when it enters a final order”). The Court must review the issues individually. *Slack v. McDaniel*, 529 U.S. 473 (2000); *Murphy v. Ohio*, 263 F.3d 466, 466-67 (6th Cir. 2001). “When the district court denies a habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack*, 529 U.S. at 484. “Where a plain procedural bar is present and the district court is correct to invoke it to dispose of the case, a reasonable jurist could not conclude either that the district court erred in dismissing the petition or

that the petitioner should be allowed to proceed further.” *Id.* Upon review, this Court finds that reasonable jurists would not find the Court’s procedural ruling debatable. A certificate of appealability will therefore be denied. Accordingly:

**IT IS HEREBY ORDERED** that the Objection (ECF No. 6) is DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 5) is APPROVED and ADOPTED as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the petition for habeas corpus relief (ECF No. 1) is DENIED for the reasons stated in the Report and Recommendation.

**IT IS FURTHER ORDERED** that a certificate of appealability pursuant to 28 U.S.C. § 2253(c) is DENIED as to each issue asserted.

Dated: September 25, 2017

/s/ Janet T. Neff  
JANET T. NEFF  
United States District Judge