

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RANDALL LAMAR NETHERY,)
Petitioner,)
v.) No. 4:17-CV-268 CDP
JASON LEWIS,)
Respondent,)

MEMORANDUM AND ORDER

This matter is before me on the petition of Randall Nethery for a writ of habeas corpus under 28 U.S.C. § 2254. The petition appears to be barred by the statute of limitations. As a result, petitioner must show cause why it should not be summarily dismissed.

Petitioner was convicted of burglary, rape, and sodomy on January 23, 1992. *Missouri v. Nethery* No. CR189-158FX (St. Charles County). On March 3, 1992, the court sentenced him to three consecutive life sentences. The sentence was affirmed on appeal. *Missouri v. Nethery*, 870 S.W.2d 241 (Mo. Ct. App. 1994) (per curiam).

According to petitioner, he did not file a motion for postconviction relief until March 23, 2014. *Nethery v. Missouri*, No. 1411-CC00276 (St. Charles County). However, the court dismissed the case as successive after petitioner's

counsel notified the court that in 1992 and 1993 petitioner had “filed one or more motions under Rule 29.15 the ultimate disposition of which is not clear from the Record.”

In the instant petition, petitioner argues that trial counsel was ineffective and that he was unlawfully seized by the police.

Pursuant to 28 U.S.C. § 2244(d), a petitioner has one year from the date his judgment of conviction becomes final within which to file a petition for writ of habeas corpus. Although the Court lacks the details of petitioner’s 1992 and 1993 postconviction motions, it is clear that his conviction became final at some point in the 1990s. Therefore, the petition appears to be untimely.

Accordingly,

IT IS HEREBY ORDERED that, no later than twenty-one (21) days from the date of this Order, petitioner must show cause why this action should not be dismissed.

IT IS FURTHER ORDERED that if petitioner does not comply with this Order, the Court will dismiss this action without further proceedings.

Dated this 13th day of February, 2017.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE