

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

JUL 11 2013

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY Tick DEPUTY

JERRY L. THOMAS,)
)
Petitioner,)
)
vs.)
)
H.A. RIOS, JR., Warden, Lawton)
Correctional Facility,)
)
Respondent.¹)

No. CIV-13-350-W

ORDER

On June 20, 2013, United States Magistrate Judge Suzanne Mitchell issued a Report and Recommendation in this matter and recommended that the Court deny the Petition for Writ of Habeas Corpus filed by petitioner Jerry L. Thomas pursuant to title 28, section 2241 of the United States Code. Thomas was advised of his right to object, see Doc. 8 at 13, and the matter now comes before the Court on Thomas' Objections to Report and Recommendation.² See Doc. 10.

¹Thomas also listed the Attorney General of the State of Oklahoma as a respondent in his Petition for Writ of Habeas Corpus. See Doc. 1. Because the state officer having custody of the petitioner is the proper respondent, see Rule 2, Rules Governing Section 2254 Cases in the United States District Courts, the Attorney General of the State of Oklahoma is DISMISSED as a respondent.

²Thomas also sent a letter to the Clerk of the Court that was received on June 27, 2013. See Doc. 9. In that document, Thomas questioned the reference to "Case No. 1983-29664" by the Oklahoma Court of Criminal Appeals, see, e.g., Doc. 1-1; Doc. 1-2, and he asserted that he has no 1983 convictions. The state court's misidentification or misdesignation, if any, of any underlying cases or convictions does not entitle Thomas to any relief.

In Thomas v. State, 675 P.2d 1016 (Okla. Crim. 1984), the Oklahoma Court of Criminal Appeals outlined Thomas' prior felony convictions. As the state court reported in 1984, Thomas was twice convicted [at the age of eighteen (18)] in 1962 of Burglary in the Second Degree, Oklahoma County District Court Case Nos. 27876 and 27984. He was convicted of Rape in the Second Degree, AFCF in 1964, Oklahoma County District Court Case No. 29664. In 1972 he was convicted of Robbery with Firearms, AFCF, Oklahoma County District Court Case No. CRF-72-940. He pleaded guilty in

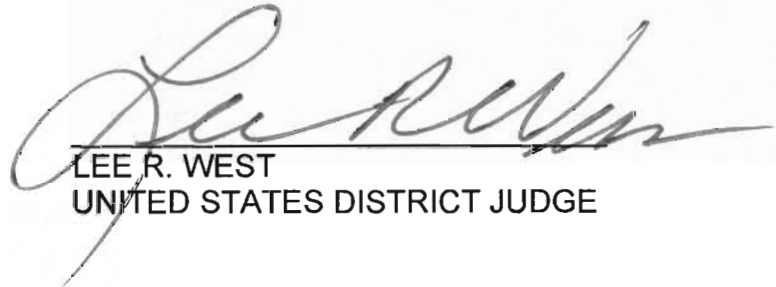
Upon de novo review of the record, the Court concurs with Magistrate Judge Mitchell's suggested disposition of this matter. The Court has considered Thomas' Petition and his objections, and in so doing, finds no grounds have been asserted either in the Petition or in the Objections to Report and Recommendation that warrant the relief Thomas has requested.

Accordingly, the Court

(1) ADOPTS the Report and Recommendation [Doc. 10] issued on June 20, 2013;
and

(2) DENIES the Petition [Doc. 1] file-stamped April 10, 2013.

ENTERED this 11th day of July, 2013.



LEE R. WEST
UNITED STATES DISTRICT JUDGE

January of 1973, to a charge of Carrying a Firearm, AFCF in Oklahoma County District Court Case No. CRF-72-939.

Thomas, 675 P.2d at 1029 n.6 (emphasis added).

Prior to that time, on February 2, 1983, post-conviction proceedings involving Thomas had been initiated in the District Court for Oklahoma County, Oklahoma. Those proceedings were assigned case number, CRF-1983-26994. See Thomas v. State, No. PC-2012-13 (Okla. Crim.); Thomas v. State, No. PC-2012-150.