

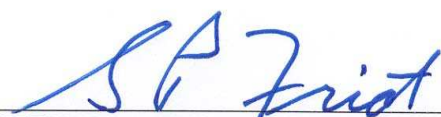
**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

FRANKIE DEAN WINTERHALTER,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-13-1167-F
)	
JERRY CHRISMAN, Warden,)	
)	
Respondent.)	

ORDER

Before the court is the Report and Recommendation of United States Magistrate Shon T. Erwin. Doc. no. 18. No objection to the Report and Recommendation has been filed, nor has an extension of time in which to object been sought or granted. Therefore, the Report and Recommendation is **ADOPTED** in its entirety; respondent’s motion to dismiss for failure to exhaust (doc. no. 15) is **GRANTED** in part and **DENIED** in part; and this action is **ADMINISTRATIVELY CLOSED** to allow petitioner to return to the Oklahoma state courts to seek relief on his unexhausted claim. Petitioner is directed to file a notice with the court clerk within 30 days of the date of this order showing that he has initiated post-conviction proceedings on his unexhausted claims. Additionally, petitioner must move to reopen this case within 14 days after the Oklahoma Court of Criminal Appeals enters a final disposition. If petitioner fails to timely comply with these requirements, this action will be dismissed without prejudice.

DATED April 8, 2014.



 STEPHEN P. FRIOT
 UNITED STATES DISTRICT JUDGE