




Jackson County, Oklahoma, and why the Court should not dismiss this matter without prejudice since Mata has admitted he has failed to exhaust his state remedies prior to the commencement of this action.

Upon de novo review of Mata's Objection to the Report and Recommendation, see Doc. 11, the Court finds that Mata has not shown that this Court has subject matter jurisdiction because he is in custody pursuant to the conviction and sentences identified in the Petition. The Court likewise finds that Mata has not met his "burden of demonstrating that he has exhausted his available state remedies." McCormick v. Kline, 572 F.3d 841, 851 (10<sup>th</sup> Cir. 2009)(quotation omitted)(further citations omitted).

Accordingly, the Court

- (1) ADOPTS the Report and Recommendation [Doc. 6] issued on February 10, 2015; and
- (2) DISMISSES Mata's Petition without prejudice.

ENTERED this 12<sup>th</sup> day of March, 2015.

  
LEE R. WEST  
UNITED STATES DISTRICT JUDGE