

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

MICHAEL A. CAMPBELL,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. CIV-16-1190-C
	)	
TIM WILKINSON,	)	
	)	
Respondent.	)	

ORDER ADOPTING REPORT AND RECOMMENDATION

This action for habeas corpus relief brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Suzanne Mitchell, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Mitchell recommended dismissal of the Petition as untimely (Report & Recomm., Dkt. No. 10, Dec. 1, 2016) and gave Petitioner notice that his right to be heard on the issue of timeliness would be by way of Objection to the Report and Recommendation, which has been timely filed. The Court will consider the matter de novo.

In his objection, Petitioner totally fails to acknowledge or refute Judge Mitchell's findings of fact, including that Petitioner had knowledge of the breach of the plea agreement, on which his Petition is based, as of July 30, 2010, and no subsequent post-conviction request tolled the limitations period thereafter. Clearly, the statute of limitations within the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), 28 U.S.C. § 2244(d)(1) bars his Petition.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons announced therein, the Petition for habeas corpus relief is dismissed, as untimely. As no amendment can cure the defect, this dismissal acts as an adjudication on the merits, and a judgment will enter.

IT IS SO ORDERED this 29th day of December, 2016.

  
ROBIN J. CAUTHRON  
United States District Judge