

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

TEX HOLBROOK, II,

Petitioner,

v.

CIVIL ACTION NO. 2:12-cv-00953

DAVID BALLARD,

Respondent.

**ORDER**

This case was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court dismiss the following claims as being untimely, unexhausted, or not cognizable in federal habeas corpus:

Ground 3 of the initial petition, to the extent that it raises claims of cumulative errors by the prosecuting attorney and/or the petitioner's counsel, Ground 4, and Ground 6 of the initial petition, and Grounds C, F-1, F-2, G, H, I, J and K of the Amended Petition, and Ground L of the Amended Petition, to the extent that it alleged cumulative errors by the prosecuting attorney and/or the petitioner's counsel.

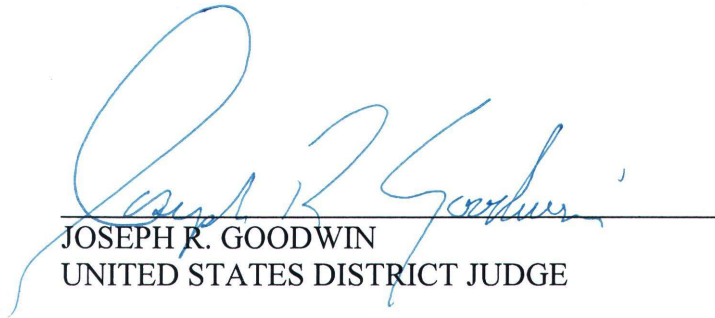
(Proposed Findings and Recommendation, [Docket 57], at 28). The remaining claims will be evaluated on their merits under the defendant's motion for summary judgment [Docket 11].

The plaintiff filed multiple written objections to the Magistrate Judge's findings of fact and recommendation, and although the objections in [Docket 60] were late by one day, I will still consider them. Having reviewed the petitioner's objections *de novo*, the court **FINDS** that they are without merit. Accordingly, the court **ADOPTS** and incorporates herein the findings and

recommendation of the Magistrate Judge. The above-listed claims shall be **DISMISSED**.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: February 21, 2013



JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE