

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

HUNTINGTON DIVISION

JORDAN L. RAUCH,

Petitioner,

v.

CIVIL ACTION NO. 3:16-10127

DAVID BALLARD, Warden,

Respondent.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Omar J. Aboulhosn, 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 grant Respondent's "Limited Response Requesting Dismissal of Untimely Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus" (ECF No. 15), dismiss Petitioner's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus By a Person in State Custody (ECF No. 2) and remove this matter from the Court's docket unless Petitioner can demonstrate within the period of time allotted for objecting to this Proposed Findings and Recommendation that the Petition was filed within the proper time period or circumstances exist which would permit equitable tolling of the limitation period. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **GRANTS** Respondent's "Limited Response Requesting Dismissal of Untimely Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus" (ECF No. 15) and

DISMISSES Petitioner's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus By a Person in State Custody (ECF No. 2). Petitioner has not demonstrated within the period of time allotted for objecting to this Proposed Findings and Recommendation that the Petition was filed within the proper time period or circumstances exist which would permit equitable tolling of the limitation period. The Court therefore **REMOVES** this matter from the Court's docket, consistent with the findings and recommendations.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: May 24, 2017



ROBERT C. CHAMBERS, CHIEF JUDGE