

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

JEREMIAH LYLE VANTASSEL,)	
Petitioner,)	C.A. No. 21-172 Erie
)	
v.)	District Judge Susan Paradise Baxter
)	Magistrate Judge Richard A. Lanzillo
MICHAEL CLARK, et al.,)	
Respondents.)	

MEMORANDUM ORDER

This *pro se* action for habeas corpus relief was filed by Petitioner Jeremiah Lyle Vantassel, an inmate incarcerated at the State Correctional Institution at Albion, Pennsylvania ("SCI-Albion"), who is serving a sentence of imprisonment imposed by the Court of Common Pleas of Erie County, Pennsylvania. In his habeas petition, Petitioner seeks relief under 28 U.S.C. § 2254, challenging his judgment of sentence. The petition was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The record indicates that Petitioner was sentenced to serve an aggregate term of 16½ to 33 years' imprisonment on April 19, 2018. No direct appeal was filed and, thus, Petitioner's judgment of sentence became final on July 5, 2018. Pa.R.A.P. 903(a); Swartz v. Meyers, 2-4 F.3d 417, 419 (3d Cir. 2000) (noting that a judgment becomes final at the conclusion of direct review or the expiration of the time for seeking such review).

On April 3, 2019, Petitioner filed a petition pursuant to the Pennsylvania Post-Conviction Relief Act, 42 Pa. C.S.A. § 9541, et seq. ("PCRA petition"), which was dismissed by the trial court. Petitioner appealed the dismissal to the Pennsylvania Superior Court, which affirmed the

dismissal on July 13, 2020. Petitioner did not seek further review. The within habeas petition was subsequently filed on July 6, 2021.

On December 22, 2022, Magistrate Judge Lanzillo issued a Report and Recommendation (“R&R”) recommending that the instant petition be dismissed, with prejudice, because it was filed after the expiration of the applicable one-year statute of limitations, and recommending further that a Certificate of Appealability be denied [ECF No. 29]. In particular, Judge Lanzillo disregarded the Erie County District Attorney’s calculation of the limitations period and determined that the instant habeas petition was filed well beyond the expiration of the applicable limitations period, even after accounting for the tolling period resulting from the pendency of Petitioner’s PCRA petition. (*Id.* at p. 2, 4). Moreover, Judge Lanzillo rejected Petitioner’s equitable tolling argument based on allegations of witness tampering by the prosecutor, which according to Petitioner, amounted to fraud upon the court and nullified the verdict and subsequent judgment of sentence. (*Id.* at p. 5).

Objections to the R&R were filed by Petitioner on January 6, 2023 [ECF No. 31]; however, the objections merely reiterate Petitioner’s equitable tolling argument that was found to be “wholly unavailing” by the Magistrate Judge.

After *de novo* review of the petition and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 19th day of January, 2023,

IT IS HEREBY ORDERED that the within petition for a writ of habeas corpus is DISMISSED, with prejudice, and that a Certificate of Appealability is DENIED. The report and recommendation of Magistrate Judge Lanzillo, dated December 22, 2022 [ECF No. 29], is adopted as the opinion of this Court. As there are no further matters pending before the Court

relative to the instant petition, the Clerk is directed to mark this case "CLOSED."


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
United States Magistrate Judge

All parties of record