

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Joey Jeffrey v. St. Mary Correctional Center

Jeffrey · No. 2:26-cv-00070 · Decided May 6, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia dismisses Joey Jeffrey’s § 2254 habeas petition and civil action for lack of jurisdiction. The court concludes that the petition is second or successive under 28 U.S.C. § 2244 because it challenges the same state convictions as an earlier habeas petition, and Jeffrey did not obtain authorization from the court of appeals. The court also notes that his objection to the magistrate judge’s proposed findings and recommendation was nonspecific and confirms that his state sentences ran consecutively.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
WRITING FOR THE COURT	Joseph R. Goodwin
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	May 6, 2026
DOCKET	2:26-cv-00070
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254. After a magistrate judge recommended dismissal for lack of jurisdiction, the district court reviewed the petitioner's objection and adopted the proposed findings and recommendation.
STANDARD OF REVIEW	De novo review of portions of a magistrate judge's proposed findings and recommendation to which specific objection is made under 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b)(3). General or nonspecific objections waive de novo review.
PARTIES	Joey Jeffrey v. St. Mary Correctional Center

QUESTIONS PRESENTED

- Whether petitioner's nonspecific objection required de novo review of the magistrate judge's proposed findings and recommendation.

2. Whether the present § 2254 petition was a second or successive petition requiring prior authorization from the appropriate court of appeals under 28 U.S.C. § 2244.
3. Whether the district court had jurisdiction to consider the successive § 2254 petition absent appellate authorization.
4. Whether petitioner's Kanawha County sentences were ordered to run consecutively or concurrently.

HOLDINGS

1. A general or nonspecific objection does not satisfy 28 U.S.C. § 636(b)(1)(C) or Rule 72(b) and waives de novo review.
2. A § 2254 petition challenging the same state convictions after an earlier § 2254 petition was adjudicated is a second or successive petition, and the petitioner must obtain authorization from the appropriate court of appeals before filing it in the district court.
3. The district court lacked jurisdiction to consider the successive § 2254 petition because petitioner had not obtained authorization from the appropriate court of appeals.

KEY QUOTATIONS

“Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an”

FACTUAL BACKGROUND

Petitioner challenged state convictions and sentences through a second federal petition under 28 U.S.C. § 2254. He had previously filed a § 2254 petition challenging the same state convictions, which was denied after the court adopted a magistrate judge's proposed findings and recommendation and granted the respondent's motion for summary judgment. Petitioner did not obtain authorization from the appropriate court of appeals before filing the present petition.

PROCEDURAL HISTORY

The action was referred to Magistrate Judge Dwane L. Tinsley, who issued proposed findings and a recommendation on March 3, 2026, recommending dismissal for lack of jurisdiction. Petitioner filed a letter-form objection. The district court found the objection nonspecific, adopted the proposed findings and recommendation, dismissed the petition and civil action for lack of jurisdiction, and directed that the action be removed from the docket.

DISPOSITION

dismissed

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA CHARLESTON DIVISION JOEY JEFFREY, Petitioner, v. CIVIL ACTION NO. 2:26-

cv-00070 ST. MARY CORRECTIONAL CENTER, Respondent. MEMORANDUM OPINION AND ORDER This action was referred to the Honorable Dwane L. Tinsley for submission of proposed findings and recommendation for disposition pursuant to 28 U.S.C. § 636.

On March 3, 2026, Judge Tinsley submitted his Proposed Findings & Recommendation, [ECF No. 11], (“PF&R”) recommending that the court DISMISS the petition and this civil action for lack of jurisdiction. The Petitioner filed a letter-form objection. [ECF No. 13]. A district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C) (emphasis added); see Fed.

R. Civ. P. 72(b)(3). Failure to file specific objections pursuant to 28 U.S.C. § 636(b)(1)(C) may be construed by any reviewing court as a waiver of such objection. *Veney v. Astrue*, 539 F. Supp. 2d 841, 845 (W.D. Va. 2008); see *United States v. Midgette*, 478 F.3d 616, 622 (4th Cir. 2007) (“[T]o preserve for appeal an issue in a magistrate judge’s report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.”).

General objections do not meet the requirements set forth in 28 U.S.C. § 636(b)(1)(C) or Rule 72(b), and, therefore, constitute a waiver of de novo review. See *Howard’s Yellow Cabs, Inc. v. United States*, 987 F. Supp. 469, 474 (W.D. N.C. 1997).

Here, the Petitioner’s filed objection is not specific. Mostly, the Petitioner recites his own procedural history of conviction, appeal, and the habeas relief he sought. [ECF No. 13]. To the extent Petitioner challenges whether his Kanawha County sentences were ordered to run concurrently or consecutively, the answer is consecutive, that is, one term is completed and then the service of another term of imprisonment begins.

Jeffery v. Ames, No. 2:19-cv-00045 (S.D. W. Va. Jan. 27, 2020) (Goodwin, J.) [ECF No. 10-25, at 19] (transcript of Petitioner’s state sentencing hearing) (“Finally, since these are individual crimes, the Court runs the sentences consecutively and not concurrently. Making Mr. Jeffery only eligible for parole after serving a minimum of 24 years in prison.”). See also *Id.* at [ECF No. 22] (The Magistrate Judge’s PF&R on Petitioner’s previous Section 2254 habeas petition) (“These sentences were ordered to run consecutively.”); *Id.* at [ECF No. 27] (the court adopted the PF&R).

Additionally, to the extent Petitioner challenges whether the instant petition is a second or successive petition, I find that it is. He filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 on January 14, 2019. *Jeffery v. Ames*, No. 2:19-cv-00045, [ECF No. 2] (S.D. W. Va.).

In that action Petitioner challenged his multiple state convictions, and Magistrate Judge Eiffert thoroughly considered Petitioner’s Petition in an 83-page Proposed Findings and Recommendations. *Id.* at [ECF No. 22].

After overruling the Petitioner's objections, this court adopted the PF&R, denied the Petition, and granted Respondent's motion for summary judgment. Id. at [ECF No. 27]. Now Petitioner challenges the same state convictions through another Section 2254 habeas petition. This is a second or successive (that is, coming one after another) petition.

Under 28 U.S.C. § 2244, "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." Here Petitioner has not done that, and this reason alone is sufficient to dismiss his petition.

Therefore, the court ADOPTS and incorporates herein the PF&R and orders judgment consistent therewith. The court DISMISSES the petition and this civil action for lack of jurisdiction and DIRECTS that this action be removed from the docket.

The court DIRECTS the Clerk to send a copy of this Memorandum Opinion and Order to counsel of record and any unrepresented party. ENTER: May 6, 2026 G pe STATES DISTRICT JUDGE