

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Oscar Combs, Sr. v. Warden, Mt. Olive Correctional Complex

Combs · No. 2:23-cv-00369 · Decided February 2, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia adopted a magistrate judge’s proposed findings and recommendation in Oscar Combs, Sr.’s attempted 28 U.S.C. § 2254 habeas action. The court found that no proper § 2254 petition was pending, denied appointment of counsel, and dismissed the case without prejudice.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	February 2, 2026
DOCKET	2:23-cv-00369
DISPOSITION	dismissed
PROCEDURAL POSTURE	The petitioner submitted a letter intended as a petition for a writ of habeas corpus under 28 U.S.C. § 2254 and requested appointment of counsel. After referral, the magistrate judge recommended dismissal without prejudice because no proper § 2254 petition was pending and recommended denial of appointed counsel. The district court adopted the PF&R, denied appointment of counsel, and dismissed the action without prejudice.
STANDARD OF REVIEW	When no timely objections are filed to a magistrate judge's proposed findings and recommendation, the district court need not conduct de novo review of the unobjected-to factual or legal conclusions. General and conclusory objections that do not identify a specific error likewise do not require de novo review.
PRECEDENTIAL VALUE	unpublished
PARTIES	Oscar Combs, Sr. v. Warden, Mt. Olive Correctional Complex

TOPICS

- federal habeas corpus
- post-conviction relief
- pleadings
- civil procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

civil procedure

appointment of counsel

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's PF&R when the petitioner filed no timely objections.
2. Whether the action should be dismissed without prejudice because no proper § 2254 petition was pending.
3. Whether the petitioner was entitled to appointment of counsel.

HOLDINGS

1. Because the petitioner filed no timely objections, the district court adopted the PF&R without conducting de novo review of its unobjected-to factual and legal conclusions.
2. No proper § 2254 petition was pending on which the court could determine AEDPA timeliness, hold the matter in abeyance, or permit amendment.
3. The petitioner's request for appointment of counsel was denied.

KEY QUOTATIONS

“Accordingly, the Court ADOPTS the PF&R, (ECF No. 10), FINDS that there is no proper pending § 2254 petition upon which this court can determine timeliness under AEDPA, hold in abeyance, or from which Petitioner may now amend, DENIES Petitioner’s request for appointment of counsel, and DISMISSES WITHOUT PREJUDICE this case from the docket.”

FACTUAL BACKGROUND

Oscar Combs, Sr. submitted a letter intended to serve as a petition for a writ of habeas corpus under 28 U.S.C. § 2254 and requested appointment of counsel. The court determined that no proper § 2254 petition was pending, so it could not determine AEDPA timeliness, hold the matter in abeyance, or permit amendment of the petition. Combs filed no objections to the magistrate judge's PF&R.

PROCEDURAL HISTORY

The action was referred to Magistrate Judge Dwane L. Tinsley, who issued a proposed findings and recommendation on November 7, 2025. The PF&R recommended finding that no proper § 2254 petition was pending on which the court could determine timeliness under AEDPA, hold the matter in abeyance, or permit amendment, and recommended denial of counsel and dismissal without prejudice. No objections were filed by the November 24, 2025 deadline, so the district court adopted the PF&R and removed the matter from its active docket.

DISPOSITION

dismissed

CASES CITED

- Thomas v. Arn, 474 U.S. 140, 150 (1985)
- Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989)
- United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984)
- Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA CHARLESTON DIVISION OSCAR COMBS, SR., Petitioner, v. CIVIL ACTION NO. 2:23-cv-00369 WARDEN, Mt. Olive Correctional Complex, Respondent. MEMORANDUM OPINION AND ORDER Before the Court is Petitioner Oscar Combs's letter for a Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254, and request for the appointment of counsel to represent him under 28 U.S.C. § 2254(h) and 18 U.S.C. § 3006A.

(ECF No. 1.) By Standing Order filed in this case on May 8, 2023, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation ("PF&R"). (ECF No. 4.) Magistrate Judge Tinsley filed his PF&R on November 7, 2025, proposing that this Court find that there is no proper pending § 2254 petition upon which this Court can determine timeliness under AEDPA, hold in abeyance, or from which Petitioner may now amend.

(ECF No. 10.) Magistrate Judge Tinsley also recommended that this Court deny Petitioner's request for appointment of counsel and dismiss this civil action without prejudice. (Id.) The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed.

Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); see also Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir.1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R in this case were due on November 24, 2025; to date, no objections have been filed.

Accordingly, the Court ADOPTS the PF&R, (ECF No. 10), FINDS that there is no proper pending § 2254 petition upon which this court can determine timeliness under AEDPA, hold in abeyance, or from which Petitioner may now amend, DENIES Petitioner's request for appointment of counsel, and DISMISSES WITHOUT PREJUDICE this case from the docket.

The Clerk is DIRECTED to remove this matter from the Court's active docket. IT IS SO ORDERED. The Court DIRECTS the Clerk to send a copy of this Order to counsel of record and any unrepresented party. ENTER: February 2, 2026 GE UNITED STATES DISTRICT JUDGE

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