

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-4262  
(Summary Calendar)

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CHRISTOPHER EURE,

Petitioner-Appellant,

versus

WARDEN, WASHINGTON CORRECTIONAL  
INSTITUTE,

Respondent-Appellee.

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Appeal from the United States District Court  
For the Western District of Louisiana

(91-CV-1164)

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(February 22, 1993)

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Before KING, DAVIS and WIENER, Circuit Judges.

PER CURIAM:\*

Petitioner-Appellant Christopher Eure, a state prisoner in Louisiana, filed a petition for habeas corpus in federal district

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\*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

court pursuant to 28 U.S.C. § 2254, challenging the constitutional validity of his sentence and included an allegation of ineffective assistance of counsel. He appeals the dismissal of his petition by the district court. Finding no reversible error, we affirm.

I

FACTS AND PROCEEDINGS

Represented by an attorney, Eure was convicted in 1983 on his plea of guilty to state charges of committing two armed robberies. Pursuant to a plea agreement, he was not prosecuted for a third armed robbery in which the victim, a taxi driver, was shot and severely injured. Eure did not appeal, but he now attacks aspects of his sentencing collaterally through the instant habeas corpus proceeding.

Without holding an evidentiary hearing, the U.S. magistrate judge recommended denial of habeas relief. Eure filed objections to the magistrate judge's report but failed to take issue specifically with any of the report's findings. Eure did assert that he was denied due process by being sentenced on the basis of the armed robbery of which he was charged but for which he was not prosecuted or convicted. He also averred that if his counsel had presented unspecified mitigating factors which Eure had suggested, the sentences would have been concurrent.

The district court, in effect adopting the magistrate judge's report, denied habeas relief. Eure timely appealed.

## II

### ANALYSIS

We have held that we will not allow "the `sandbagging' of district judges when an appellant fails to object to a magistrate's report in the district court and then undertakes to raise his objections for the first time in this court." Nettles v. Wainwright, 677 F.2d 404, 410 (5th Cir. Unit B 1982) (en banc). Accordingly, "[p]arties filing objections must specifically identify those findings objected to," or the parties are barred from attacking those findings on appeal. Id., n.8. "[T]he failure of a party to file written objections . . . shall bar the party from a de novo determination by the district court of an issue covered in the report and shall bar the party from attacking on appeal factual findings accepted or adopted by the district court except upon grounds of plain error or manifest injustice." Id. at 410 (emphasis added).

Eure contends first that he is entitled to relief on grounds that his trial court relied on materially false and prejudicial information in his presentence report (PSI). He fails to state, however, just what information in the report he believes was incorrect; he asserts only that "neither counsel nor the court was certain whether [he] had been involved in one or two armed robberies." In his report the magistrate judge stated that "there is nothing in the PSI which might have misled the [trial] Judge concerning [the facts of another armed robbery and a murder trial wherein Eure was acquitted]." The magistrate judge found further

that Eure "failed to demonstrate how any of the information contained in the PSI considered by the Judge was materially false." Finally, the magistrate judge found that "the Judge felt that the sentence he was imposing was proper for this particular defendant in regards to these two robberies." Eure's claim is not only barred by Nettles, it also lacks arguable merit.

Eure poses as another issue: "Whether the trial judge erred in concluding there was no plea agreement." We shall not consider this allegation on the merits, however, as Eure has not briefed it. See Thompkins v. Belt, 828 F.2d 298, 302 (5th Cir. 1987). Furthermore, it is barred by Nettles and lacks arguable merit. The trial court was well aware of the aspect of the agreement that the third armed robbery charge would be dismissed but that the state made no other promises in exchange for Eure's plea.

Eure also urges as an issue: "Whether the trial court erred when it failed to consider the agreement at sentencing." For the reasons set forth in the preceding paragraph we shall not consider this allegation, which lacks merit as well.

Eure contends additionally that his trial counsel rendered ineffective assistance by failing to examine the PSI and to rebut misleading and false information contained in it. But Eure does not state in his brief what information in the PSI may have been false or misleading. The magistrate judge found that Eure "failed to demonstrate how any of the information contained in the PSI considered by the Judge was materially false." Consequently, the magistrate judge found that Eure had failed to show how he may have

been prejudiced by counsel's failure to examine the PSI.

Eure did not challenge these findings in his objections to the magistrate judge's report. Accordingly, his briefed contention that counsel was ineffective is barred by the Nettles doctrine. Furthermore, the district court was correct in finding that Eure failed to demonstrate that he had been prejudiced by any action or omission of counsel, an essential element of an ineffectiveness claim. See Strickland v. Washington, 466 F.2d 668, 694, 697, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984).

Finally, the transcripts of Eure's arraignment and sentencing show that his trial counsel was fully familiar with the relevant facts and that he represented Eure ably and well. Under the plea agreement, he received a substantial concession from the state, i.e., dismissal of the third robbery charge, the one involving the severe wounding of the victim. Eure received a substantial sentence as a result of the series of armed robberies in which he participated, not for lack of effective legal representation.

For the foregoing reasons, the district court's denial of Eure's petition for a writ of habeas corpus is  
AFFIRMED.