

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**Michael O. Foster, No. B-80546,**

**Petitioner,**

**v.**

**TARRY<sup>1</sup> WILLIAMS, Warden,  
Western Illinois Correctional Center,**

**Respondent.**

**Case No. 12-cv-01172-DRH**

**MEMORANDUM AND ORDER**

**HERNDON, Chief Judge:**

Before the Court is petitioner Michael O. Foster's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 1). Petitioner is a state prisoner currently incarcerated in Western Illinois Correctional Center. Petitioner brings this 2254 action to challenge his July 22, 2004, St. Clair County, Illinois conviction for two counts of aggravated battery with a firearm. Petitioner alleges that his conviction for *two* counts of aggravated battery with a firearm is unconstitutional because the conviction arose from the same act of firing shots at the victim in rapid succession. Petitioner also alleges various claims of ineffective assistance of counsel.

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<sup>1</sup> The petition misspells respondent's first name. The correct spelling for the respondent's first name is Tarry (as opposed to Terry). The Clerk is directed to revise the docket accordingly.

Petitioner indicates that he has exhausted his state court remedies with respect to the claims raised in his federal habeas petition; furthermore, he appears to have filed his petition in a timely manner.

**IT IS HEREBY ORDERED** that respondent shall answer the petition or otherwise plead within thirty days of the date this order is entered. This preliminary order to respond does not, of course, preclude the State from making whatever waiver, exhaustion or timeliness it may wish to present. Service upon the Illinois Attorney General, Criminal Appeals Bureau, 100 West Randolph, 12th Floor, Chicago, Illinois 60601 shall constitute sufficient service.

**IT IS FURTHER ORDERED** that pursuant to Local Rule 72.1(a)(2), this cause is referred to a United States Magistrate Judge for further pre-trial proceedings.

**IT IS FURTHER ORDERED** that this entire matter be **REFERRED** to a United States Magistrate Judge for disposition, as contemplated by Local Rule 72.2(b)(2) and 28 U.S.C. § 636(c), *should all the parties consent to such a referral.*

Petitioner is **ADVISED** of his continuing obligation to keep the Clerk (and each opposing party) informed of any change in his whereabouts during the

pendency of this action. This notification shall be done in writing and not later than seven days after a transfer or other change in address occurs.

**IT IS SO ORDERED.**

Signed this 8th day of January, 2013.

*David R. Herndon*



David R. Herndon

2013.01.08

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**Chief Judge  
United States District Court**