IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

DAVID W. GNAU,

Plaintiff,

v. 2:14-cv-01162-LH-LF

J. WRIGLEY, Warden, and
HECTOR BALDERAS, Attorney General
of the State of New Mexico,

Defendants.

MEMORANDUM OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

THIS MATTER comes before the Court on Magistrate Judge Laura Fashing's Proposed Findings and Recommended Disposition (Doc. 11) (Report) and petitioner David W. Gnau's objections to the Report (Doc. 12). Having reviewed the record in this case, the Court overrules Gnau's objections and adopts the magistrate judge's recommendation to dismiss Gnau's petition for lack of jurisdiction.

I. Standard of Review

When a party files timely written objections to the magistrate judge's recommendation, the district court generally will conduct a de novo review and "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(C); *see also* FED. R. CIV. P. 72(b)(3). However, to preserve an issue for de novo review, "a party's objections to the magistrate judge's report and recommendation must be both timely and specific." *United States v. One Parcel of Real Prop., With Buildings, Appurtenances, Improvements, & Contents, Known as: 2121 E. 30th St., Tulsa, Oklahoma,* 73 F.3d 1057, 1060 (10th Cir. 1996). "[O]nly an objection that is sufficiently specific to focus the district court's attention on the factual and legal issues that are truly in dispute will advance the policies behind

the Magistrate's Act . . . ." *Id.* "Just as a complaint stating only 'I complain' states no claim, an objection stating only 'I object' preserves no issue for review." *Id*. (internal citation omitted).

II. Discussion

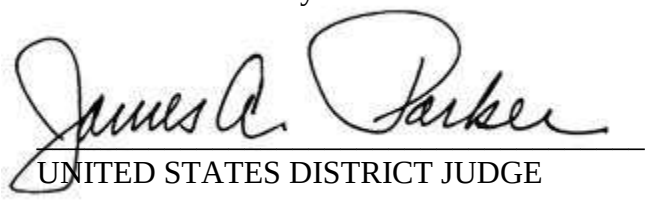
The magistrate judge recommended that the Court dismiss Gnau's second or successive habeas petition for lack of jurisdiction. Doc. 11 at 3–4. The magistrate judge further recommended that this Court dismiss rather than transfer Gnau's petition because Gnau failed show that he met the requirements for filing a second or successive petition by showing that any of his claims relied on a new rule of constitutional law or were based on facts which were unknown to him at the time he filed his previous petition. *Id.* at 5.

In his objections, Gnau argues that he was ordered by a judge to refile his writ of habeas corpus in this Court, and that he "was not informed" that he had to file his petition in the Tenth Circuit Court of Appeals. Doc. 12 at 1. Although Gnau attempts to explain why he proceeded in the manner that he did, none of his objections address the findings and recommendations in the magistrate judge's Report. Because he fails to object to any specific findings or recommendations, his objections are insufficient to preserve any issues for *de novo* review.

The Court overrules Gnau's objections (Doc. 12).

IT IS THEREFORE ORDERED that the Proposed Findings and Recommended Disposition (Doc. 11) is ADOPTED by the Court.

IT IS FURTHER ORDERED that this case be DISMISSED FOR LACK OF JURISDICTION and that a final judgment be entered concurrently with this order.



UNITED STATES DISTRICT JUDGE