

1 preparing and filing the objections (see Objs. at 1)). In any
2 event, the newly submitted medical records show that Petitioner
3 has at all relevant times had only mild mental-health issues: his
4 GAF score has almost always been in the 60s² (see, e.g., Objs. at
5 38 (GAF score of 65 in Sept. 2014), 65 (same in Dec. 2014), 92
6 (62 in Sept. 2015), 84 (62 in Apr. 2016)); his thought processes
7 have remained "logical" and "linear" and "relevant to the topic
8 of discussion" (see, e.g., id. at 30, 38, 63, 66, 131, 155); and
9 he has always been able to communicate effectively (see, e.g.,
10 id. at 65, 69, 156). The medical records only confirm the
11 Magistrate Judge's conclusion that he is not entitled to
12 equitable tolling based on any mental-health issues. (See R. &
13 R. at 19-21.)

14 Finally, Petitioner objects to what he contends are two
15 factual mistakes made by the Magistrate Judge. First, he seems
16 to insist that he filed his "Verified Accusation" "in March 2015
17 [NOT] December 2, 2015 as the Magistrate Judge set out." (Objs.
18 at 2.) But the proof of service for that document is signed and
19 dated December 2, 2015, and the document itself refers to events
20 that happened after March 2015. (See Lodged Doc. 8 at 2, 6-8.)³
21 He also asserts that he "did not admit to not filing his own
22 Notice of Appeal" (Objs. at 20), as the Magistrate Judge stated

24 ² GAF scores of between 61 and 70 indicate "some mild
25 symptoms (e.g., depressed mood and some insomnia) OR some
26 difficulty in social, occupational, or school functioning . . .
27 but generally functioning pretty well, has some meaningful
interpersonal relationships." Diagnostic and Statistical Manual
of Mental Disorders 34 (revised 4th ed. 2000).

28 ³ For this document the Court uses the pagination provided
by its Case Management/Electronic Case Filing system.

1 (see R. & R. at 3). But Petitioner's claims in the Petition rest
2 on his attorney's not filing a notice of appeal for him, which
3 would not have prejudiced him had he filed his own.

4 Because the Petition is time barred for the reasons stated
5 in the R. & R., IT IS ORDERED that it is denied, Respondent's
6 motion to dismiss is granted, and Judgment be entered dismissing
7 this action with prejudice.

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9 DATED: March 9, 2017



BEVERLY REID O'CONNELL
U.S. DISTRICT JUDGE

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