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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

ARTHUR LEE MILLER

Petitioner,

vs.

J.W. SULLIVAN, Warden,

Respondent.

CASE NO. 08 CV 1675 JLS (JMA)

**ORDER: (1) DENYING  
PETITIONER'S MOTION FOR  
EXTENSION OF TIME; (2)  
ADOPTING MAGISTRATE  
JUDGE PORTER'S REPORT AND  
RECOMMENDATION; (3)  
DENYING PETITIONER'S WRIT  
OF HABEAS CORPUS; and (4)  
DISMISSING PETITION WITH  
PREJUDICE**

(Doc. Nos. 1, 18, 26)

Petitioner Arthur Lee Mill, a prisoner proceeding pro se, filed a petition for writ of habeas corpus on September 11, 2008. (Doc. No. 1.) Respondent filed an answer on April 22, 2009. (Doc. No. 15.) Petitioner filed a traverse on May 11, 2009. (Doc. No. 16.) Petitioner was convicted on November 18, 2005 for one count of second degree murder and one count of attempted voluntary manslaughter. (*See* Lodgment No. 3.) The jury also found that Petitioner used and discharged a handgun during the commission of the crimes. (*Id.*) The state trial court sentenced Petitioner to 55 years, 6 months to life in prison on May 8, 2006. (*See* Lodgment No. 2.) The conviction was affirmed on appeal, and Petitioner's state habeas petition was summarily denied. (*See* Lodgment No. 3 & No.4.)

On February 23, 2010, Magistrate Judge Adler issued a Report and Recommendation ("R&R") to this Court, recommending the Court deny Petitioner's petition and dismiss the Petition with

1 prejudice. (See Doc. No. 18.) Any objections to the R&R were originally due on or before March 19,  
2 2010. The Court thereafter granted two separate extensions of time for Petitioner to file objections,  
3 one until May 14, 2010 and the other until August 6, 2010 on the basis of Petitioner's allegations that  
4 he was not given access to the prison's law library. (Doc. Nos. 20, 21, 23, 24.) In its Order granting  
5 Defendants' second extension of time, the Court stated that no further extensions of time will be given  
6 to Petitioner. (Doc. No. 24.) Accordingly, the Court **DENIES** Petitioner's third motion for extension  
7 of time. (Doc. No. 26.)

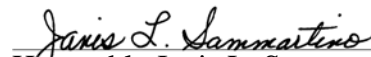
8 Rule 72(b) of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1) set forth the  
9 duties of a district court in connection with a magistrate judge's report and recommendation. "The  
10 district court must make a *de novo* determination of those portions of the report . . . to which objection  
11 is made," and "may accept, reject, or modify, in whole or in part, the findings or recommendations  
12 made by the magistrate." 28 U.S.C. 636(b)(1)(c); *see also United States v. Remsing*, 874 F.2d 614,  
13 617 (9th Cir. 1989); *United States v. Raddatz*, 447 U.S. 667, 676 (1980). However, in the absence of  
14 timely objection, the Court need "only satisfy itself that there is no clear error on the face of the  
15 record." Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (citing *Campbell v. U.S. Dist. Court*,  
16 501 F.2d 196, 206 (9th Cir. 1974)).

17 In this case, Plaintiff has failed to timely file objections to Magistrate Judge Adler's R&R  
18 despite two extensions of time which allowed Petitioner an extra five months. Having reviewed the  
19 R&Rs, the Court finds that it is thorough, well reasoned, and contains no clear error. Therefore, the  
20 Court adopts both R&Rs in full.

21 The Court hereby: (1) **DENIES** Petitioner's third motion for extension of time to file  
22 objections; (2) **ADOPTS** Magistrate Judge Adler's Report and Recommendation; (3) **DENIES**  
23 Petitioner's petition for writ of habeas corpus; and (4) **DISMISSES** Petitioner's petition with  
24 prejudice. The Clerk shall close the file.

25 IT IS SO ORDERED.

26 DATED: August 24, 2010

27   
28 Honorable Janis L. Sammartino  
United States District Judge