

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

CODY JAMES MALONE,
Petitioner,

vs.

Case No.: 5:21cv38/TKW/EMT

W.E. MACKELBURG,
Respondent.

ORDER

This case is before the Court based on the magistrate judge's Report and Recommendation (Doc. 17) and Petitioner's objection (Doc. 18).¹ The Court reviewed the issues raised in the objections de novo as required by 28 U.S.C. §636(b)(1) and Fed. R. Civ. P. 72(b)(3), and based on that review, the Court agrees with the magistrate judge's determination that the habeas petition should be denied because Petitioner received all the process he was due in the disciplinary proceeding, the finding of guilt was based on evidence of his individual conduct, and the sanction imposed was within limits established by BOP regulations.

On the latter point, even if Petitioner is correct that the restriction of his email access is superfluous because he is not eligible for email access as a sex offender,

¹ Petitioner's objection was styled as "Respondents [sic] Objection to Magistrate's Report and Recommendations and Combined Motions for Remand and Abeyance of Ruling Due to Respondent's [sic] Belated Discovery of Illegality of UDC Sentencing or Sanction that Renders All Previous Motions, Reports, or Recommendations Illegal."

Petitioner did not exhaust that issue by raising it in his administrative appeal (indeed, he admits in his objection that he “missed” the issue) and it would not impact the legality of the remainder of the sanction. Also, at this point, the restriction on email access based on the disciplinary action has expired.

Accordingly, it is **ORDERED** that:

1. The magistrate judge’s Report and Recommendation is adopted and incorporated by reference in this Order.
2. The habeas petition challenging BOP Incident Report Number 3352967 (Doc. 1) is **DENIED**.
3. All relief requested in Petitioner’s objection (Doc. 18) is **DENIED**.
3. The Clerk is directed to enter judgment in accordance with this Order and close the case.

DONE and ORDERED this 1st day of October, 2021.

T. Kent Wetherell, II

T. KENT WETHERELL, II
UNITED STATES DISTRICT JUDGE