

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 16-cv-61104-GAYLES/WHITE

LEANDER McCOMB,
Petitioner,

v.

**JULIE JONES, Secretary, Florida
Department of Corrections,**
Respondent.

ORDER AFFIRMING AND ADOPTING REPORT OF MAGISTRATE JUDGE

THIS CAUSE comes before the Court on Magistrate Judge Patrick A. White's Report of Magistrate Judge [ECF No. 11], entered on May 9, 2017. Petitioner Leander McComb, who appears in this action *pro se*, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §§ 2254 on May 24, 2016, attacking his conviction in case number 06-2008-CF08596A from the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida [ECF No. 1]. The matter was referred to Judge White, pursuant to Administrative Order 2003-19 of this Court, for a ruling on all pretrial, nondispositive matters, and for a Report and Recommendation on any dispositive matters. [ECF No. 3].

Judge White's Report recommends that the Court dismiss the Petition because the Petitioner filed it beyond the one-year limitations period and because he has failed to establish, in the alternative, that he is actually innocent or that he is entitled to equitable tolling. The Report also recommends that no certificate of appealability be issued. Objections to the Report were due by May 23, 2017. To date, no objections have been filed.

A district court may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1). Those portions of the report and recommendation to which objec-

tion is made are accorded *de novo* review, if those objections “pinpoint the specific findings that the party disagrees with.” *United States v. Schultz*, 565 F.3d 1353, 1360 (11th Cir. 2009); *see also* Fed. R. Civ. P. 72(b)(3). If no objections are filed, the district court need only review the report and recommendation for “clear error.” *Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006) (per curiam); *see also* Fed. R. Civ. P. 72 advisory committee’s note. The Court has undertaken this review and has found no clear error in the analysis and recommendations stated in the Report. Accordingly, it is

ORDERED AND ADJUDGED that the Report [ECF No. 11] is **AFFIRMED AND ADOPTED** and incorporated into this Order by reference. The Petition for Writ of Habeas Corpus [ECF No. 1] is **DISMISSED**. No certificate of appealability shall issue.

This action is **CLOSED**.

DONE AND ORDERED in Chambers at Miami, Florida, this 31st day of May, 2017.



DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE