IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

KENNETH G. ROBERTS,   :
                                             :
          Petitioner,   :
                                             :
v.   :   CASE NO.: 1:11-CV-124 (WLS)
                                             :
CEDRIC TAYLOR, Warden   :
                                             :
          Respondent.   :
_____:

ORDER

Before the Court is a Recommendation from United States Magistrate Judge Thomas Q. Langstaff, filed May 16, 2012. (Doc. 11). It is recommended that Respondent's Motion to Dismiss the Petition as Untimely Filed (Doc. 7) be granted. (*Id*. at 3).

The Recommendation provided the Parties with fourteen (14) days from the date of its service to file written objections to the recommendations therein. (*Id.*) The period for objections expired on Wednesday, May 30, 2012. (*See* generally Docket). Petitioner's Objection to the Recommendation was not filed until June 5, 2012, with no explanation provided for the delay. (Doc. 12). As such, it was not timely filed and will not be considered.[1]

Upon review and consideration, the objections set forth in Plaintiff's Written Objections to Report and Recommendation (Doc. 12) are **OVERRULED**, and United States Magistrate Judge Langstaff's May 16, 2012 Recommendation (Doc. 11) is **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein together

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[1] Petitioner's objections, even if they were timely, are not persuasive. Petitioner's objections focus primarily on establishing a basis for equitable tolling. However, Petitioner admits that he was aware of the deadline established by the AEDPA and chose not to file a petition until after the deadline had passed. (Doc. 12 at 1-3). The choice to file an untimely petition was fully within his control and avoidable. Accordingly, this Court finds that Petitioner's Objection (Doc. 12) fails to rebut the legally sound recommendation of Judge Langstaff.

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with the reasons stated and conclusions reached herein. Accordingly, Respondent's Motion to

Dismiss the Petition as Untimely Filed (Doc. 7) is **GRANTED**.

SO ORDERED, this 8th day of August, 2012.

/s/ W. Louis Sands
THE HONORABLE W. LOUIS SANDS,
UNITED STATES DISTRICT COURT