

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

John Joseph Kotowski,

Civil No. 11-3219 (PAM/FLN)

Petitioner,

v.

ORDER

Tom Roy, Commissioner of Corrections,
and Michelle Smith, Warden,

Respondents.

This matter is before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge Franklin L. Noel dated December 14, 2011. The R&R recommended that this Court dismiss Petitioner’s application for habeas corpus relief under 28 U.S.C. § 2254 as time barred. Petitioner filed objections to the R&R.

According to statute, the Court must conduct a de novo review of any portion of the Magistrate Judge’s opinion to which specific objections are made. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b). Based on that de novo review, the Court adopts the R&R and dismisses Petitioner’s Petition for Writ of Habeas Corpus as untimely.

In his objections to the R&R Petitioner attempts to explain why his habeas petition should not be deemed untimely. But none of Petitioner’s excuses for failing to file a petition within the one-year limitation period prescribed by Congress are sufficient to render Magistrate Judge Noel’s conclusion incorrect or Petitioner’s habeas petition timely.

Accordingly, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Noel's Report and Recommendation dated December 14, 2011 (Docket No. 11) is **ADOPTED**;
2. The Petition for a Writ of Habeas Corpus (Docket No. 1) is **DENIED**;
3. This matter is summarily **DISMISSED with prejudice**; and
4. Petitioner is **DENIED** a Certificate of Appealability.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 23, 2012

s/ Paul A. Magnuson

Paul A. Magnuson
United States District Court Judge