

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Montoya Flores Rodolfo,

Civil No. 17-3066 (DWF/TNL)

Petitioner,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

R. Bell, Warden, Federal Medical Center  
Rochester,

Respondent.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Tony N. Leung dated January 10, 2018. (Doc. No. 8.) No objections have been filed to that Report and Recommendation in the time period permitted. The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. Based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

**ORDER**

1. Magistrate Judge Tony N. Leung's January 10, 2018 Report and Recommendation (Doc. No. [8]) is **ADOPTED**.
2. Respondent R. Bell's Motion to Dismiss Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Doc. No. [6]) is **GRANTED**.
3. Petitioner's Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Doc. No. [1]) is **DISMISSED WITHOUT PREJUDICE**.

4. Petitioner's Motion Requesting Equitable Tolling (Doc. No. [3]) is **STRICKEN**.

5. This matter is **DISMISSED WITHOUT PREJUDICE**.  
**LET JUDGMENT BE ENTERED ACCORDINGLY**.

Date: February 6, 2018

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge