

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Ricardo Dale Smith,

Case No. 24-CV-02714 (JMB/SGE)

Plaintiff,

v.

**ORDER**

Andrew Gordon, *Judge*,

Defendant.

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This matter is before the Court on the Report and Recommendation (R&R) of United States Magistrate Judge Shannon G. Elkins dated October 7, 2024. (Doc. No. 16.) The R&R recommends that Smith's habeas petition be denied for failing to exhaust state court remedies, and that Smith's remaining motions be denied as moot. (*See* Doc. Nos. 8, 9, 13, 14.) Neither party has objected to the R&R, and the time to do so has now passed. *See* D. Minn. L.R. 72.2(b)(1).

In the absence of timely objections, the Court reviews the R&R for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Finding no clear error, and based upon all the files, records, and proceedings in the above-captioned matter, IT IS HEREBY ORDERED THAT:

1. The R&R (Doc. No. 16) is ADOPTED;
2. Smith's Amended Petition (Doc. No. 14) is DENIED;
3. Smith's Application to Proceed in District Court without Prepaying Fees or Costs (Doc. No. 8) is DENIED as moot;
4. Smith's "Motion/Affidavit" (Doc. No. 9) is DENIED as moot;

5. Smith's Request to Reconsider Order (Doc. No. 13) is DENIED as moot; and
6. The Court DISMISSES this action without prejudice.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: November 22, 2024

/s/ Jeffrey M. Bryan  
Judge Jeffrey M. Bryan  
United States District Court