

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ZACHARY KRIESEL,

Petitioner,

v.

No. 19-cv-0992 KG/SMV

**MARK BOWEN and
ATTORNEY GENERAL OF THE
STATE OF NEW MEXICO,**

Respondents.

**MEMORANDUM OPINION AND ORDER
GRANTING IN PART MOTION FOR EXTENSION OF TIME**

THIS MATTER is before the Court on Petitioner's Pro Se Motion for Indefinite Extension of Time [Doc. 26], filed on November 30, 2020.¹ Respondents responded on December 29, 2020, indicating that they did not object to an extension for a reasonable, fixed amount of time. [Doc. 27]. Petitioner filed no reply, and no reply is needed to resolve this matter. The Motion will be GRANTED IN PART and DENIED IN PART.

Petitioner is a pro se prisoner confined in the Northeast New Mexico Correctional Facility, [Doc. 26] at 1, and he filed a Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus on October 16, 2019. [Doc. 1] at 1, 15. On reference from the Honorable Kenneth J. Gonzales, United States District Judge, on July 20, 2020, I entered a Proposed Findings and Recommended Disposition ("PF&RD") that the Petition [Doc. 1] be denied with prejudice. [Docs. 12, 13]. Petitioner's objections to the PF&RD were due on August 6, 2020. *See* [Doc. 13] at 23; Fed. R.

¹ Under the prison mailbox rule, Petitioner's Motion is considered filed on November 30, 2020, when he deposited it with the institution's first-class mail system. [Doc. 26] at 3. *See Houston v. Lack*, 487 U.S. 266 (1988). Throughout this Order, all references to the dates of Petitioner's filings refer to the date he deposited the document with the institution's first-class mail system.

Civ. P. 6(d); Fed. R. Cr. P. 45(c). Since that time, Petitioner has filed multiple Motions seeking an extension of time to file objections to the PF&RD. [Docs. 14, 22, 26]. The Court has already granted two such Motions, allowing Petitioner in excess of four months to file objections to the PF&RD. *See* [Docs. 16, 25].

On November 30, 2020, Petitioner filed the present Motion, [Doc. 26], requesting an indefinite amount of time to respond to the PF&RD. As grounds for the requested extension, Petitioner states that he does not have “any access to a prison law library” because there is an outbreak of COVID-19 in the facility, and the warden has put the entire facility on lockdown. *Id.* at 1. Petitioner further states that authorities have not indicated when the lockdown might be lifted and that he “will defer to the Court on the amount of time it will allow” him to respond to the PF&RD.² *Id.* at 2. Respondents do not object to an extension, for a “reasonable” and “fixed” amount of time, for Petitioner to file an objection to the PF&RD. [Doc. 25] at 1. Therefore, because Respondents do not object, the Court will grant an additional 90 days to object to the PF&RD.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Petitioner’s Motion for an Indefinite Extension of Time [Doc. 26] is **GRANTED IN PART** and **DENIED IN PART**. It is **GRANTED** to the extent that the Court will permit Petitioner to file objections to the PF&RD **no later than April 22, 2021**. It is **DENIED** to the extent that Petitioner seeks an indefinite amount of time to respond.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge

² Petitioner references needing time “to comply with the Court’s past and current time deadlines” and “any past and pending orders.” [Doc. 26] at 1, 2. Other than Petitioner’s deadline to object to the PF&RD, Petitioner has no other deadlines.