

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

BRYCE FRANKLIN,

Petitioner,

vs.

No. 1:21-cv-00304-WJ-GJF

DWAYNE SANTISTEVAN, and
HECTOR BALDERAS, Attorney General
of the State of New Mexico,

Respondents.

**ORDER ADOPTING THE MAGISTRATE JUDGE’S PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION**

The Magistrate Judge filed his Proposed Findings and Recommended Disposition (“PFRD”) on April 11, 2024. (Doc. 23). The PFRD notified the parties of their ability to file objections within fourteen days, and that failure to do so waived appellate review. (Doc. 23 at 17). No objections were filed within the fourteen-day limitations period thereby waiving any right to review of the proposed disposition. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996).

Pursuant to FED. R. CIV. P. 72 and 28 U.S.C. § 636(b)(1)(C), the Court has conducted a review of the record and all parts of the Magistrate Judge’s PFRD. After conducting this review, and having thoroughly considered the Magistrate Judge’s PFRD, the Court finds no reason either in law or fact to depart from the Magistrate Judge’s recommended disposition and will adopt the PFRD.

Petitioner Franklin did not file any objections to the PFRD. However, long after the deadline for objections had run, Petitioner filed two motions asking the Court to dismiss his 28 U.S.C. § 2241 Petition without prejudice to allow him to refile his claims as civil rights claims.

(Doc. 25, 26). Petitioner filed his Petition on April 5, 2021, more than three years ago. (Doc. 1). Petitioner has been on notice that the relief he was seeking was not available in a habeas corpus proceeding since at least August 17, 2021. (See Doc. 9 at 6-8). The Magistrate Judge exhaustively analyzed Petitioner Franklin's claims and made a recommendation for disposition on the merits, including dismissal with prejudice, and Petitioner made no objection to that proposed disposition. The Court having fully addressed Petitioner's claims, Petitioner should not now be permitted to voluntarily dismiss or withdraw his claims to avoid the consequences of the Court's rulings. See, e.g., *Hurd v. Mondragon*, 851 F.2d 324, 329 (10th Cir. 1988).¹ The Court will deny the two motions to dismiss (Doc. 25, 26).

IT IS THEREFORE ORDERED AS FOLLOWS:

1. The Magistrate Judge's Proposed Findings and Recommended Disposition (Doc.23) are **ADOPTED**;
2. The Court **DISMISSES WITH PREJUDICE** the Petition (Doc. 1) and all claims brought by Petitioner Bryce Franklin in this case; and
3. Petitioner's Motion to Dismiss (Doc. 25) and Motion to Dismiss (Doc. 26) are **DENIED**.

¹The Court also notes that Mr. Franklin is a frequent litigant and has been given ample opportunity by this Court to bring any claims he believes he may have. See, *Franklin v. New Mexico Dept. of Corr.*, 1:18-cv-01099-WJ-SMV; *Franklin v. Lucero*, 1:18-cv-01156-JB-JHR; *Franklin v. Lucero, et al.*, 1:cv-18-01239-MV-JHR; *Franklin v. Horton, et al.*, 1:19-cv-00450-MIS-KRS; *Franklin v. Anaya, et al.*, 1:19-cv-00899-KWR-GBW; *Franklin v. State of New Mexico*, 1:20-cv-00358-JB-GJF; *Franklin v. Stevenson, et. al.*, 1:20-cv-00576-MIS-JFR; *Franklin v. The Geo Group, et al.*, 2:21-cv-00013-RB-GJF; *Franklin v. Santistevan, et al.*, 2:21-cv-00303-RB-KK; *Franklin v. Santistevan, et al.*, 1:21-cv-00304-WJ-GJF (this case); *Franklin v. Stevenson, et al.*, 2:22-cv-00427- MLG-GJF; *Franklin v. Martinez, et al.*, 2:22-cv-00699-RB-GJF; *Franklin v. Wexford Health Services, et al.*, 2:23-cv-00200-MIS-JMR; *Franklin v. Martinez, et al.*, 2:23-cv-00694-DHU-LF; *Franklin v. Martinez, et al.*, 2:23-cv-00699-MIS-LF; *Franklin v. Martinez, et al.*, 2:23-cv-00799-DHU-KRS; *Franklin v. Martinez, et al.*, 2:23-cv-00809-KG-GJF; *Franklin v. Jackson, et al.*, 2:23-cv-00902-WJ-GBW; *Franklin v. Quigley, et al.*, 2:23-cv-1000-JB-JMR.

/s/
WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE