

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
MAR 30 2012

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DAMIEN ADAMS,

Petitioner,

- against -

DALE ARTUS and THE ATTORNEY GENERAL
OF NEW YORK,

Respondents.
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TOWNES, United States District Judge:

Damien Adams (“Petitioner”) filed the instant *pro se* petition for a writ of habeas corpus (“Petition”) on May 4, 2009 pursuant to 28 U.S.C. § 2254 for purposes of challenging his conviction for first-degree manslaughter following a jury trial in the New York State Supreme Court. On December 4, 2009, this Court referred the matter to Magistrate Judge Viktor V. Pohorelsky for a report and recommendation (“R&R”). Subsequently, Petitioner filed a motion to amend the Petition on January 7, 2010 to add a claim for ineffective assistance of appellate counsel. On February 24, 2012, Judge Pohorelsky issued an R&R recommending that this Court deny the Petition and the motion to amend. This Court adopts Judge Pohorelsky’s R&R in its entirety.

A district court judge may designate a magistrate judge to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. *See* 28 U.S.C. § 636(b)(1). Within fourteen days of service of the recommendation, any party may file written objections to the magistrate’s report. *See id.* Upon *de novo* review of those portions of the record to which objections were made, the district court judge may affirm or reject the recommendation. *See id.*

The Court is not required to review the factual or legal conclusions of the magistrate judge as to those portions of the R&R to which no objections have been made. *See Thomas v.*

BROOKLYN OFFICE

MEMORANDUM & ORDER

09-CV-1941 (SLT) (VVP)

Arn, 474 U.S. 140, 150, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985). In addition, failure to file timely objections may waive the right to appeal this Court's order. *See* 28 U.S.C. § 636(b)(1); *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989).

In the instant case, objections to the R&R were due within fourteen days of receipt of the R&R, which was mailed to Petitioner on February 24, 2012. To date, no objections have been filed with this Court. Upon review, this Court affirms and adopts the R&R of Judge Pohorelsky in its entirety. Accordingly, Petitioner's motion to amend the petition and his petition for a writ of habeas corpus are denied.

SO ORDERED.

s/ SLT

SANDRA L. TOWNES
United States District Judge

Dated: *March 29*, 2012
Brooklyn, New York