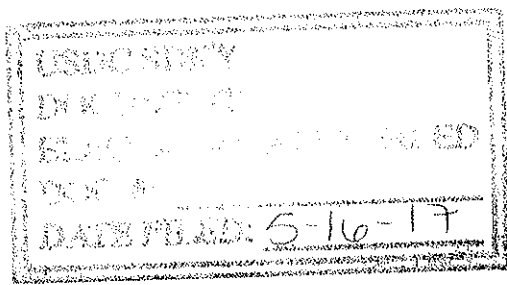


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----X  
DENNIS WATKINS, :  
 :  
 : Petitioner, :  
 :  
 : -against- :  
 :  
 : JOHN C. COLVIN, :  
 :  
 : Respondent. :  
 :  
 :  
-----X

16 Civ. 4055 (LAP) (BCM)  
ORDER

Loretta A. Preska, Senior United States District Judge:

Petitioner Dennis Watkins, proceeding pro se, filed a petition to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2254 on June 1, 2016. (Pet., dated Jan. 1, 2013 [dkt. no. 1].) Petitioner submitted an Amended Petition on November 22, 2016. (Amended Pet., dated Nov. 22, 2016 [dkt. no. 25].) Respondent then moved on January 31, 2017 to dismiss the Amended Petition for lack of subject matter jurisdiction, pursuant to Rule 2(c)(5) of the Rules Governing Section 2254 Cases and 28 U.S.C. §2242, on the ground that petitioner failed to sign his pleading in his own name. (Mot. to dismiss., dated Jan 31, 2017 [dkt. no. 35].) Before the Court is the Report and Recommendation ("R&R") of United States Magistrate Judge Barbara Moses, issued on March 2, 2017, which deemed Petitioner's filing to constitute adequate compliance with Rule 2(c)(5) and 2242 and thus denied Respondent's motion to dismiss as moot. (R&R, dated

Mar. 2, 2017 [dkt no. 43].) On March 15, 2017, Petitioner filed an objection to Magistrate Judge Moses's Report and Recommendation. (Obj., dated Mar. 15, 2017 [dkt. no. 46].)

For the purposes of this order, the Court assumes familiarity with the underlying facts and analysis as set forth in Magistrate Judge Moses's R&R. In reviewing a magistrate judge's report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within 14 days of being served with a copy of the report, id.; see also Fed. R. Civ. P. 72(b)(2). When a party submits a timely objection, a district court reviews de novo the parts of the report and recommendation to which the party objected. 28 U.S.C. § 636(b)(1); see also Fed. R. Civ. P. 72(b)(3). With regard to a report and recommendation that is not objected to, or the unobjected-to portions of a report and recommendation, a district court reviews the report and recommendation for clear error. DiPilato v. 7-Eleven, Inc., 662 F. Supp. 2d 333, 339 (S.D.N.Y. 2009); Lewis v. Zon, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); Wilds v. United Parcel Serv., Inc., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As a starting point, it is worth pointing out again that Magistrate Judge Moses ruled for Petitioner by denying

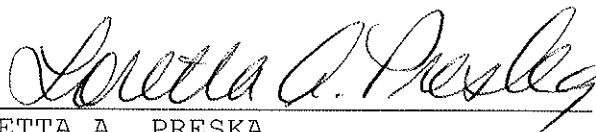
Respondent's motion to dismiss his habeas petition. Perhaps unsurprisingly then, despite the label "objection" that Petitioner placed at the top of his March 15 filing, the document contains no specific objections to anything in the Report and Recommendation of Magistrate Judge Moses. The document is nothing more than further argumentation on the merits of the case and essentially is a motion for broader relief, such as for immediate release, (see Obj. at 8), that has no relation to the issues addressed by the Report and Recommendation, i.e., the Respondent's motion to dismiss.

Because there is no part of the Report and Recommendation that Petitioner has objected to, the Court applies the clear error standard. DiPilato, 662 F. Supp. 2d at 339; Lewis, 573 F. Supp. 2d at 811; Wilds, 262 F. Supp. 2d at 169. Having carefully reviewed the thorough and well-reasoned Report and Recommendation, the Court finds no facial error in Magistrate Judge Moses's conclusions. Zielinski v. Linaweaver, 2015 WL 9302832, at \*2 (S.D.N.Y. 2015). Accordingly, the Court adopts the R&R (dkt. no. 43) in its entirety. Respondent's Motion to Dismiss (dkt. no. 35) is denied.

The Clerk's Office is directed to mail a copy of this Order to Petitioner at his last known address: Dennis Watkins, 12-A-3635, Great Meadows Correctional Facility, 11739 Route 22, P.O. Bx. 51, Comstock, NY 12821.

SO ORDERED.

Dated: New York, New York  
May 16, 2017



LORETTA A. PRESKA  
Senior United States District Judge