

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANDRES RODRIGUEZ, Petitioner, -against- MARK MILLER, Respondent.
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24-CV-2715 (MMG) (RFT)

ORDER ADOPTING
REPORT &
RECOMMENDATION

MARGARET M. GARNETT, United States District Judge:

On September 25, 2024, this case was referred to Magistrate Judge Robyn F. Tarnofsky for a report and recommendation on the motion filed at Dkt. No. 20. *See* Dkt. No. 28. On February 7, 2025, Magistrate Judge Tarnofsky issued a Report and Recommendation (the “R&R”) with respect to the motion. *See* Dkt. No. 31. The R&R notified the parties that, pursuant to 28 U.S.C. §636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, any objections to the R&R must be filed within 14 days (in other words, by February 21, 2025). *Id.*

Despite notification of the right to object to the R&R, no objections were filed. Because of Petitioner’s *pro se* status, and his incarceration, the Court has waited approximately two additional weeks beyond the due date to issue this Order, in order to allow for the potential of late-filed objections (although in this case the Petitioner has consistently made his filings on time or even in advance of the due date set by the Court). *See* Dkt. Nos. 21, 23, 25.

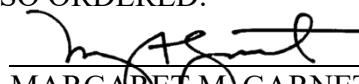
Where no timely objections are made, the Court may adopt the R&R as long as there is no clear error on the face of the record. *Sacks v. Gandhi Eng’g, Inc.*, 999 F. Supp. 2d 629, 632 (S.D.N.Y. 2014). The Court has carefully reviewed the record and the R&R.¹ **As there are no objections and as the Court finds no clear error in the record, the Court hereby adopts the R&R in its entirety.**

¹ There is one minor clerical error in the R&R, which does not affect the substance of any aspect of the R&R: in the recitation of the procedural history on page 4, the R&R notes that the Petitioner’s first opposition to the motion to dismiss was filed on September 22, 2024 at Dkt. No. 23. This is in error, as that filing was made on September 6, 2024.

Accordingly, for the reasons stated in the R&R, the motion to dismiss the petition as untimely is GRANTED. The Clerk of Court is respectfully directed to terminate Dkt. No. 20 and CLOSE this case.

Dated: March 6, 2025
New York, New York

SO ORDERED.



MARGARET M GARNETT
United States District Judge