

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

|                 |   |                        |
|-----------------|---|------------------------|
| ALEX S. PENATE, | ) |                        |
|                 | ) |                        |
| Petitioner,     | ) |                        |
|                 | ) |                        |
| -vs-            | ) | Case No. CIV-16-1442-F |
|                 | ) |                        |
| RAYMOND BYRD,   | ) |                        |
|                 | ) |                        |
| Respondent.     | ) |                        |

**ORDER**


United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation on January 30, 2017, wherein he recommended that petitioner, Alex S. Penate’s petition for a writ of habeas corpus under 28 U.S.C. § 2254 be dismissed with prejudice. Magistrate Judge Erwin advised petitioner of his right to file an objection to the Report and Recommendation by February 17, 2017 and he further advised petitioner that the failure to make a timely objection to the Report and Recommendation would waive the right to appellate review of both factual and legal issues therein contained.

To date, petitioner has not filed any objection to the Report and Recommendation nor has he sought an extension of time to file an objection. The court therefore accepts, adopts and affirms the Report and Recommendation in its entirety.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Shon T. Erwin on January 30, 2017 (doc. no. 8) is **ACCEPTED**, **ADOPTED** and **AFFIRMED**. Petitioner, Alex S. Penate’s petition for a writ of

habeas corpus under 28 U.S.C. § 2254 (doc. no. 1) is **DISMISSED WITH PREJUDICE**. Judgment shall issue forthwith.

IT IS SO ORDERED this 3<sup>rd</sup> day of March, 2017.

  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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