

United States District Court
Southern District of Texas

ENTERED

June 18, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

FRANCISCO DURAN JR.,	§	
	§	
Petitioner,	§	
VS.	§	CIVIL ACTION NO. 1:18-CV-99
	§	
LORIE DAVIS,	§	
	§	
Respondent.	§	

OPINION AND ORDER

On May 2, 2019, Petitioner Francisco Duran, Jr. signed a Petition for Writ of Habeas Corpus based on 28 U.S.C. §§ 2254 and 2255. He placed the Petition in the prison mail system the following day. Respondent filed for summary judgment (Doc. 29), and the Magistrate Judge has issued a Report and Recommendation (Doc. 44) recommending dismissal of Duran's action as time barred. Duran filed timely objections. (Doc. 47) Having considered the Motion for Summary Judgment, the record in this matter, and the applicable law, the Court finds the Motion well taken.

In his objections, Duran does not raise arguments that he did not make in his response to the Motion for Summary Judgment. The Magistrate Judge considered those arguments and correctly rejected them as untenable. In addition, the Court agrees with the Report and Recommendation that a certificate of appealability should not issue because Duran has not made a substantial showing of the denial of a constitutional right.

Accordingly, it is:

ORDERED that that Report and Recommendation is **ADOPTED**;

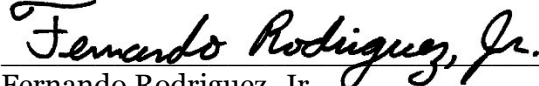
ORDERED that Respondent Lorie Davis's Motion for Summary Judgment with Brief in Support is **GRANTED**;

ORDERED that Petitioner Francisco Duran, Jr.'s Petition for Writ of Habeas Corpus is **DISMISSED**; and

ORDERED that a Certificate of Appealability is **DENIED**.

The Clerk is directed to close this case.

SIGNED this 18th day of June, 2019.



Fernando Rodriguez, Jr.
United States District Judge