

United States District Court
Southern District of Texas

ENTERED

February 13, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

JUAN REYES RIVERA,

Petitioner,

VS.

LORIE DAVIS,

Respondent.

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CIVIL NO. 2:16-CV-537

ORDER

In this habeas-corpus case, the Court has before it Respondent’s Motion for Summary Judgment (Dkt. No. 17), the July 18, 2017, Memorandum and Recommendation (“M&R”) of the Magistrate Judge to whom this case was referred (Dkt. No. 20), and Petitioner’s objections to the M&R (Dkt. No. 25).

On December 23, 2016, Petitioner filed his petition for a writ of habeas corpus, which was later amended. Dkt. Nos. 1, 15. On June 16, 2017, Respondent filed a Motion for Summary Judgment, arguing that Petitioner’s habeas petition is time-barred. Dkt. No. 17. Petitioner did not file a timely response. The Magistrate Judge considered the merits of Respondent’s Motion for Summary Judgment and on July 18, 2017, recommended that the Court grant the motion because Petitioner’s claim is time-barred and not entitled to equitable tolling. Dkt. No. 20. Petitioner timely filed his objections on September 8, 2017. Dkt. No. 25; *see* Dkt. No. 23 (order granting Petitioner an extension to file objections).

Petitioner’s objections include attachments that were not presented to the Magistrate Judge. The Court disregards these attachments. *See Imperium (IP) Holdings, Inc. v. Apple, Inc.*, 920 F.Supp.2d 747, 752 (E.D. Tex. 2013) (“ . . . [E]vidence and arguments presented for the first time upon objection to a report and recommendation need not be considered.”) (citations omitted); *Finley v. Johnson*, 243 F.3d 215, 219 n. 3 (5th Cir. 2001) (“We have held that issues raised for

the first time in objections . . . are not properly before the district judge.”) (citing *United States v. Armstrong*, 951 F.2d 626, 630 (5th Cir. 1992)). Furthermore, Petitioner’s objections are unresponsive and unsupported by law or evidence.

After an independent review of the record and applicable law, this Court **OVERRULES** Petitioner’s objections (Dkt. No. 25) and **ADOPTS** the Magistrate Judge’s July 18, 2017, M&R (Dkt. No. 20). The Court **GRANTS** Respondent’s Motion for Summary Judgment (Dkt. No. 17), **DISMISSES** Petitioner’s habeas action as time-barred, and **DENIES** Petitioner a Certificate of Appealability.

Final Judgment will be entered separately in accordance with Federal Rule of Civil Procedure 58.

SIGNED this 13th day of February, 2018.

A handwritten signature in black ink, appearing to read "Hilda Tagle", written over a horizontal line.

Hilda Tagle
Senior United States District Judge