

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK

Derran Morris v. M. Kopp, Acting Superintendent, Sing Sing
Correctional Facility

25 Civ. 2091 (NSR) (AEK) (S.D.N.Y. Dec. 4 2025) (S.D. N.Y. 2025) · No. 25 Civ. 2091 (NSR) (AEK) · Decided
December 4, 2025

SUMMARY

The United States District Court for the Southern District of New York adopts a magistrate judge’s Report and Recommendation and dismisses Derran Morris’s 28 U.S.C. § 2254 habeas petition with prejudice as time-barred under the Antiterrorism and Effective Death Penalty Act. The court finds no clear error because the petition was filed more than one year after the petitioner’s state conviction became final and no basis for equitable tolling was shown. The court also declines to issue a certificate of probable cause and certifies that an appeal would not be taken in good faith.

CASE DETAILS

COURT	United States District Court for the Southern District of New York
WRITING FOR THE COURT	Nelson S. Roman
JURISDICTION	United States District Court for the Southern District of New York
DECIDED	December 4, 2025
DOCKET	25 Civ. 2091 (NSR) (AEK)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought federal habeas relief from a New York state-court felony conviction. The matter was referred to a magistrate judge, who recommended dismissal with prejudice as time-barred. After no party filed timely objections, the district court reviewed the Report and Recommendation for clear error, adopted it in full, dismissed the proceeding, denied a certificate of probable cause, and certified that an appeal would not be taken in good faith.
STANDARD OF REVIEW	When no timely specific objection is made to a magistrate judge's Report and Recommendation, the district court reviews for clear error on the face of the record. Specific objections receive de novo review; general or conclusory objections, or mere repetition of prior arguments, receive clear-error review.

PRECEDENTIAL VALUE	unpublished district court opinion
PARTIES	Derran Morris v. M. Kopp, Acting Superintendent, Sing Sing Correctional Facility

TOPICS

[federal habeas corpus](#)
[statute of limitations](#)
[state post-conviction relief](#)
[motions to dismiss](#)
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PRACTICE AREAS

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QUESTIONS PRESENTED

1. What standard of review applied to the magistrate judge's Report and Recommendation when neither party filed timely objections?
2. Whether Morris's federal habeas petition under 28 U.S.C. § 2254 was barred by the one-year statute of limitations in 28 U.S.C. § 2244(d)(1).
3. Whether equitable tolling excused the untimely filing.
4. Whether the proceeding should be dismissed with prejudice and whether a certificate of probable cause should issue.

HOLDINGS

1. When no timely objection is made to a magistrate judge's Report and Recommendation, the district court reviews the recommendation for clear error on the face of the record.
2. Morris's federal habeas petition was untimely because it was filed more than one year after his state conviction became final.
3. Equitable tolling was unavailable because Morris failed to demonstrate extraordinary circumstances that prevented timely filing and reasonable diligence throughout the tolling period.
4. The proceeding was dismissed with prejudice as time-barred.

KEY QUOTATIONS

“Habeas review is an extraordinary remedy.”

FACTUAL BACKGROUND

Morris was convicted after a jury trial in New York State Supreme Court, Westchester County, of murder in the second degree, manslaughter in the first degree, assault in the first degree, and assault in the second degree. He was convicted on July 16, 2019, and sentenced to forty years' incarceration. The New York intermediate appellate court affirmed the conviction, and the New York Court of Appeals denied leave to appeal on October 6,

2022. Morris filed his federal habeas petition more than one year after the conviction became final and identified no state post-conviction proceedings or circumstances warranting equitable tolling.

PROCEDURAL HISTORY

Morris filed the proceeding on March 5, 2025, challenging his New York conviction. Respondent moved to dismiss under Federal Rule of Civil Procedure 12(b)(6), asserting that the petition was untimely. Magistrate Judge Andrew E. Krause issued an October 15, 2025 Report and Recommendation recommending dismissal with prejudice. Neither party objected, and the district court adopted the recommendation after finding no clear error.

DISPOSITION

dismissed

CASES CITED

- Wilds v. United Parcel Serv., Inc., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)
- Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)
- Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008)
- Small v. Sec. of HHS, 892 F.2d 15, 16 (2d Cir. 1989)
- United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997)
- Diaz v. Girdish, 2007 WL 187677, at *1 (S.D.N.Y. Jan. 23, 2007)
- Harris v. Burge, 2008 WL 772568, at *6 (S.D.N.Y. Mar. 25, 2008)
- Singleton v. Davis, 2007 WL 152136, at *1 (S.D.N.Y. Jan. 18, 2007), aff'd, 308 F. App'x 560 (2d Cir. 2009)
- People v. Morris, 207 A.D.3d 477, 478 (A.D. 2d Dept. 2022)
- People v. Morris, 39 N.Y.3d 941 (2022)
- Harrington v. Richter, 562 U.S. 86, 97 (2011)
- Bousley v. United States, 523 U.S. 614, 621 (1998)
- Reed v. Farley, 512 U.S. 339, 354 (1994)
- Smith v. McGinnis, 208 F.3d 13, 17 (2d Cir. 2000)
- Rodriguez v. Scully, 905 F.2d 24 (2d Cir. 1990) (per curiam)
- Alexander v. Harris, 595 F.2d 87, 90-91 (2d Cir. 1979)
- Coppedge v. United States, 369 U.S. 438 (1962)

OPINION

Morris

PER CURIAM.

USDC sDNY

DOCUMENT

ELECTRONICALLY FILED

UNITED STATES DISTRICT COURT DOC #:

SOUTHERN DISTRICT OF NEW YORK DATE FILED: 12/04/2025

wae ee K DERRAN MORRIS, : Petitioner, : OPINION AND ORDER -against- : : 25 Civ. 2091 (NSR) (AEK) M. KOPP, Acting Superintendent, : Sing Sing Correctional Facility, : Respondent. : So NELSON S. ROMAN, United States District Judge: Pro se Petitioner, Derran Morris (“Petitioner”), commenced the instant proceeding on March 5, 2025, pursuant to 28 U.S.C. § 2554, challenging his New York State Court felony conviction. (ECF No. 1, the “Petition.”) On or about June 5, 2025, Respondent filed a motion to dismiss the Petition pursuant to Federal Rule of Civil Procedure 12(b)(6) on the basis that the Petition is time-barred. (ECF No. 14.) On April 14, 2025, the matter was referred to Magistrate Judge Andrew E. Krause (“MJ Krause”), pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), for all general pre-trial matters. (ECF No. 14.) Presently before the Court is MJ Krause’s Report and Recommendation (“R&R”) dated October 15, 2025, recommending that the proceeding be dismissed with prejudice as time-barred. (ECF No. 18.) For the following reasons, the Court adopts the R&R in its entirety and deems the action dismissed.

STANDARD OF REVIEW

A magistrate judge may “hear a pretrial matter dispositive of a claim or defense” if so designated by a district court. See Fed. R. Civ. P. 72(b)(1); accord 28 U.S.C. § 636(b)(1)(B). In such a case, the magistrate judge “must enter a recommended disposition, including, if appropriate, proposed findings of fact.” Fed. R. Civ. P. 72(b)(1); accord 28 U.S.C. § 636(b)(1). Where a magistrate judge issues a report and recommendation, [w]ithin fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the 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)(C); accord Fed. R. Civ. P. 72(b)(2)–(3). However, “[t]o accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)); accord *Caidor v. Onondaga County*, 517 F.3d 601, 604 (2d Cir. 2008) (“[F]ailure to object timely to a magistrate’s report operates as a waiver of any further judicial review of the magistrate’s decision.”) (quoting *Small v. Sec. of HHS*, 892 F.2d 15, 16 (2d Cir. 1989)); see also Fed. R. Civ. P. 72 advisory committee note (1983 Addition, Subdivision (b)) (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”). To the extent a party makes specific objections to an R&R, those parts must be reviewed de novo. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). In a de novo review, a district court must consider the “[r]eport, the

record, applicable legal authorities, along with Plaintiff's and Defendant's objections and replies." *Diaz v. Girdish*, 2007 WL 187677, at *1 (S.D.N.Y. Jan. 23, 2007) (internal quotation marks omitted). But to the extent "a petition makes only general and conclusory objections... or simply reiterates the original arguments, the district court will review the report and recommendations strictly for clear error." *Harris v. Burge*, 2008 WL 772568, at *6 (S.D.N.Y. Mar. 25, 2008). The distinction turns on whether a litigant's claims are "clearly aimed at particular findings in the magistrate's proposal" or are a means to take a "'second bite at the apple' by simply relitigating a prior argument." *Singleton v. Davis*, 2007 WL 152136, at *1 (S.D.N.Y. Jan. 18, 2007), *aff'd*, 308 F. App'x 560 (2d Cir. 2009).

DISCUSSION

Despite the passage of more than fourteen days, neither Petitioner nor Respondent have objected to MJ Krause's R&R. As required, the Court reviews the R&R for clear error. See *Harris*, 2008 WL 772568, at *6. Upon a thorough review of the record and MJ Krause's well-reasoned decision, the Court finds the conclusion(s) reached are grounded in fact and law. Accordingly, the Court finds no clear error. As outlined in more detail in the R&R, Petitioner commenced this proceeding challenging his judgment of conviction by the New York State Supreme Court, Westchester County, for the crimes of murder in the second degree, manslaughter in the first degree, assault in the first degree, and assault in the second degree. (See Petition.) Petitioner was thereby convicted on July 16, 2019, following a jury trial, and was sentenced to forty-years of incarceration. (ECF No. 15-2 at 1-2.) Petitioner appealed his conviction to New York's intermediate appellate court, which affirmed his conviction. *People v. Morris*, 207 A.D.3d 477, 478 (A.D. 2d Dept. 2022). Petitioner then sought leave to appeal to the New York State Court of Appeals, the state's highest court, but on October 6, 2022, his application was denied. *People v. Morris*, 39 N.Y.3d 941 (2022). To date, Petitioner has not sought any other state court relief and has failed to seek a writ of certiorari from the United States Supreme Court. "The statutory authority of federal courts to issue habeas corpus relief for persons in state custody is provided by 28 U.S.C. § 2254, as amended by the Antiterrorism and Effective Death Penalty Act of 1996" ("AEDPA"); *Harrington v. Richter*, 562 U.S. 86, 97 (2011). In relevant part, an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding. 28 U.S.C. § 2254(b). "Habeas review is an extraordinary remedy." *Bousley v. United States*, 523 U.S. 614, 621 (1998) (citing *Reed v. Farley*, 512 U.S. 339, 354 (1994)). To be granted a writ of habeas corpus from a federal district court, a petitioner must fully and carefully comply with the provisions of the AEDPA as prescribed in 28 U.S.C. § 2254. Before a federal district court may review the merits of a state criminal judgment

in a habeas corpus action, the court must first determine whether the petitioner has complied with the procedural requirements set forth in 28 U.S.C. §§ 2244 and 2254. If a petitioner has met these threshold requirements, a federal district court may hear “an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court” only if the petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). The court must then determine the appropriate standard of review applicable to the petitioner’s claims in accordance with 28 U.S.C. § 2254(d). Generally, a state prisoner has one year from the date his or her conviction becomes final to file a habeas petition in federal court. 28 U.S.C. § 2244(d)(1). This limitation period ordinarily begins to run on “the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review.” 28 U.S.C. § 2244(d)(1)(A). The limitations period is tolled while “a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending[.]” 28 U.S.C. § 2244(d)(2). The limitations period may also be equitably tolled if a petitioner can show that “extraordinary circumstances prevented him [or her] from filing his [or her] petition on time,” and the petitioner “acted with reasonable diligence throughout the period he [or she] seeks to toll.” *Smith v. McGinnis*, 208 F.3d 13, 17 (2d Cir. 2000). As outlined in the R&R, the instant Petition was filed more than one year after Petitioner’s conviction became final on October 6, 2022. Moreover, Petitioner has failed to demonstrate extraordinary circumstances warranting equitable tolling of the limitations period.

CONCLUSION

Upon a review of the R&R, the Court finds no clear error on the face of the R&R. Accordingly, the Court adopts MJ Krause’s R&R in its entirety. The instant proceeding commenced pursuant to 28 U.S.C. § 2554 is deemed DISMISSED with prejudice. As the Petition presents no questions of substance for appellate review, a certificate of probable cause should not be issued. See *Rodriguez v. Scully*, 905 F.2d 24 (2d Cir. 1990) (per curiam); *Alexander v. Harris*, 595 F.2d 87, 90-91 (2d Cir. 1979). The Court certifies pursuant to 28 U.S.C. § 1915(a) that an appeal from this order would not be taken in good faith. See *Coppedge v. United States*, 369 U.S. 438 (1962). The Clerk of Court is respectfully directed to mail a copy of this Order to pro se Petitioner at the address on ECF, to show service on the docket, and to terminate the motion at ECF No. 14 and the action. Dated: December 4, 2025 SO ORDERED White Plains, NY Nelson S. Roman US. District Court, Judge