

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
DAKOTA, SOUTHERN DIVISION

Sean Michael Franklin v. Joseph Roemich

Franklin · No. 4:25-CV-04241-RAL · Decided January 2, 2026

SUMMARY

The United States District Court for the District of South Dakota adopted a magistrate judge's Report and Recommendation and dismissed Sean Michael Franklin's 28 U.S.C. § 2254 habeas petition without prejudice. The dismissal permits Franklin to exhaust his claims in state court before pursuing federal habeas relief, and the court noted that he had not timely objected to the recommendation.

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Southern Division
WRITING FOR THE COURT	Roberto A. Lange
JURISDICTION	United States District Court for the District of South Dakota, Southern Division
DECIDED	January 2, 2026
DOCKET	4:25-CV-04241-RAL
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se petitioner sought federal habeas relief under 28 U.S.C. § 2254. The matter was referred to a magistrate judge, who recommended dismissal without prejudice for failure to exhaust state-court remedies. The district court adopted the recommendation and dismissed the petition without prejudice after Franklin failed to timely object.
STANDARD OF REVIEW	When a party fails to timely object to a magistrate judge's report and recommendation, the district court need not conduct de novo review of factual issues; the court reviewed the recommendation for legal error.
PRECEDENTIAL VALUE	Unknown
PARTIES	Sean Michael Franklin v. Joseph Roemich

TOPICS

- federal habeas corpus
- post-conviction relief
- appellate procedure
- waiver
- state post-conviction relief

PRACTICE AREAS

Federal habeas corpus

Post-conviction relief

Federal civil procedure

Appellate procedure

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's recommendation to dismiss the § 2254 petition without prejudice so that Franklin could first exhaust his claims in state court.
2. Whether the absence of a timely objection required or permitted the district court to forgo de novo review of the factual portions of the Report and Recommendation.

HOLDINGS

1. The § 2254 petition was properly dismissed without prejudice to allow Franklin to exhaust his claims in state court.
2. Because Franklin did not timely object to the Report and Recommendation, the district court was not required to review the factual issues de novo and could review the recommendation for legal error.

KEY QUOTATIONS

"the Petition, Doc. 1, is dismissed without prejudice to allow Franklin to properly exhaust his claims with the state courts first." (Order)

FACTUAL BACKGROUND

Franklin filed a federal habeas petition under 28 U.S.C. § 2254. The record before the court indicated that he had not first properly exhausted his claims in the state courts. After the magistrate judge recommended dismissal without prejudice, Franklin failed to file a timely objection.

PROCEDURAL HISTORY

Franklin filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. Magistrate Judge Veronica L. Duffy issued a Report and Recommendation recommending dismissal without prejudice to permit exhaustion of the claims in state court. Franklin did not timely object, and the district court adopted the recommendation and dismissed the petition without prejudice.

DISPOSITION

dismissed

CASES CITED

- United States v. Williams, 557 F.3d 943, 948 (8th Cir. 2009)
- Nash v. Black, 781 F.2d 665, 667 (8th Cir. 1986)
- Thompson v. Nix, 897 F.2d 356, 357 (8th Cir. 1990)

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF SOUTH DAKOTA □ SOUTHERN DIVISION SEAN MICHAEL FRANKLIN, 4:25-CV-04241-RAL Plaintiff, ORDER ADOPTING REPORT AND vs. RECOMMENDATION AND DISMISSING PETITION WITHOUT PREJUDICE JOSEPH ROEMICH, Defendant. Petitioner Sean Michael Franklin filed a pro se habeas petition pursuant to 28 U.S.C. © § 2254. Doc. 1. This matter was referred to Magistrate Judge Veronica L. Duffy, who on December 8, 2025, issued a Report and Recommendation that the petition be dismissed without prejudice so that Franklin may properly exhaust his claims with the state courts first.

Doc. 3. The Report and Recommendation alerted Franklin that he had fourteen (14) days after service to object and that failure to timely object waived the right to appeal questions of fact. Doc. 3 at 5. Franklin has not timely filed any objection to the Report and Recommendation. This Court has reviewed the Report and Recommendation and finds no error of law within it.

Given the absence of timely objection, this Court need not review the facts de novo. *United States v. Williams*, 557 F.3d 943, 948 (8th Cir. 2009) (citing *Nash v. Black*, 781 F.2d 665, 667 (8th Cir. 1986)); *Thompson v. Nix*, 897 F.2d 356, 357 (8th Cir. 1990).

For good cause, it is ORDERED that the Report and Recommendation, Doc. 3, is adopted and the Petition, Doc. 1, is dismissed without prejudice to allow Franklin to properly exhaust his claims with the state courts first. DATED this 2nd day of January, 2026. BY THE COURT: ROBERTO A. LANGE CHIEF JUDGE