

**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

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