

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

JAMES L. WAVER,	)	CASE NO. 1: 06 CV 1239
	)	
Petitioner,	)	
	)	JUDGE DONALD C. NUGENT
v.	)	
	)	
RICH GANSHEIMER, Warden,	)	<u>MEMORANDUM OPINION</u>
	)	<u>AND ORDER</u>
Respondent.	)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Kenneth S. McHargh. The Report and Recommendation (ECF # 29), filed on September 1, 2009, is ADOPTED by this Court, and Petitioner's Petition for Writ of Habeas Corpus (ECF # 1), filed pursuant to 28 U.S.C. § 2254, is denied.

Pursuant to Local Rule 72.2, this matter was referred to Magistrate Judge McHargh for the preparation of a report and recommendation. On September 1, 2009, Magistrate Judge McHargh recommended that the Petition be denied as untimely. Petitioner filed objections to the Report and Recommendation on September 1, 2009 and September 14, 2009. (ECF # 30, # 32.)

The Court has reviewed the Report and Recommendation *de novo*. See *Thomas v. Arn*, 474 U.S. 140 (1985). Moreover, it has considered all of the pleadings, affidavits, motions, and filings of the parties. Despite Petitioner's assertions to the contrary, the Court finds Magistrate Judge McHargh's Report and Recommendation to be well-written, well-supported, and correct. The Court likewise finds that the Petition for a Writ of Habeas Corpus should be denied as untimely filed. Therefore, the Report and Recommendation is ADOPTED in its entirety (ECF # 29), the Petition for Writ of Habeas Corpus is DENIED (ECF # 1), and Petitioner's objections

are thereby DENIED (ECF # 30, # 32.).

Furthermore, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); FED. R. APP. P. 22(b).

IT IS SO ORDERED.

  
DONALD C. NUGENT  
United States District Judge

DATED: September 25, 2009