

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

MICHAEL F. CLAY,)	CASE NO. 5:09cv2600
)	
Petitioner,)	JUDGE DAN AARON POLSTER
)	
vs.)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
KEITH SMITH, Warden)	
)	
Respondent.)	

Before the Court is the Report and Recommendation of Magistrate Judge issued (“R & R”) (**Doc #: 11**). Petitioner has filed a 28 U.S.C. § 2254 petition for writ of habeas corpus.

On August 30, 2010, the Magistrate Judge issued a Report and Recommendation (“R&R”) recommending that the habeas petition be denied. Under the relevant statute:

Within *ten 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.

28 U.S.C. § 636(b)(1)(C) (1988) (emphasis added). On September 14, 2010, Petitioner was granted an extension until October 4, 2010 to file objections to the R&R. It is now October 13, 2010, and Petitioner has yet to file his any objections or request a further extension.

The failure to timely file written objections to a Magistrate Judge's R & R constitutes a waiver of a de novo determination by the district court of an issue covered in the report. Thomas v. Arn, 728 F.2d 813 (6th Cir. 1984), aff'd, 474 U.S. 140 (1985); see United States v. Walters, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the Magistrate Judge's thorough and well-written R & R (**Doc #:** 11) and hereby **ADOPTS** it. Accordingly, Petitioner's petition for writ of habeas corpus is **DENIED**.

IT IS SO ORDERED.

/s/ Dan Aaron Polster October 13, 2010
Dan Aaron Polster
United States District Judge