

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

CHARLES FINLEY,	:	
	:	NO. 1:10-CV-00342
Petitioner,	:	
	:	
	:	
v.	:	<b>OPINION AND ORDER</b>
	:	
	:	
WARDEN, WARREN CORRECTIONAL	:	
INSTITUTION,	:	
	:	
Respondent.	:	

This matter is before the Court on the Magistrate Judge's Report and Recommendation, (doc. 14), to which no objections were filed. In his Report and Recommendation, the Magistrate Judge recommended that Respondent's Motion to Dismiss (doc. 12) be granted, and the Court agrees.

Because Petitioner's habeas corpus petition sought relief on the same grounds on which Ohio's state courts granted him relief, the Magistrate Judge found Petitioner's habeas petition moot and recommends that Respondent's motion to dismiss be granted (doc. 14).

Having reviewed this matter pursuant to 28 U.S.C. §636(b), the Court finds no clear error on the face of the record and agrees with the position taken by the Magistrate Judge. See Advisory Committee Notes to Fed. R. Civ. P. 72; Thomas v. Arn, 474 U.S. 140, 150(1985) ("It does not appear that Congress intended to

require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings"). Accordingly, the Court ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation in its entirety (doc. 14) and therefore GRANTS Respondent's Motion to Dismiss without prejudice (doc. 12). Further, the Court finds that Petitioner's petition was not frivolous or malicious and did not fail to state a claim upon which relief could be granted.

SO ORDERED.

Dated: April 5, 2011

/s/ S. Arthur Spiegel

S. Arthur Spiegel  
United States Senior District Judge