IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO EASTERN DIVISION

SCOTT D. PHILLIPS,

CASE NO. 2:07-cv-833 JUDGE SARGUS MAGISTRATE JUDGE ABEL

Petitioner,

v.

CLIFFORD SMITH, Warden,

Respondent.

OPINION AND ORDER

On December 4, 2008, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be dismissed. Although the parties were advised of the right to object to the Magistrate Judge's *Report and Recommendation*, and of the consequences of failing to do so, no objections have been filed.

The Report and Recommendation is **ADOPTED** and **AFFIRMED**. This action hereby is **DISMISSED**.

IT IS SO ORDERED.

EDMUND A. SARGUS, JR.

United States District Judge