

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

TRAVIS GOLDMAN,

Petitioner,

v.

CASE NO. 2:11-CV-515

JUDGE EDMUND A. SARGUS, JR.

MAGISTRATE JUDGE E.A. PRESTON DEAVERS

TIM BRUNSMAN, WARDEN,

Respondent.

OPINION AND ORDER

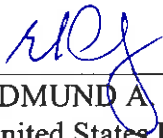
On September 13, 2011, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be transferred to the United States Court of Appeals for the Sixth Circuit as a successive petition. Petitioner has filed objections to the Magistrate Judge's *Report and Recommendation*.

Petitioner objects to the Magistrate Judge's recommendation. He contends that this action does not constitute a successive petition because he did not, in his prior habeas corpus petition, raise a claim of prosecutorial misconduct based on the failure to disclose evidence, as he had not yet discovered the factual basis for this claim. He additionally contends that Yvonne Jennings' statement establishes that, but for this constitutional error, no reasonable fact finder would have found him guilty and this Court therefore has jurisdiction to consider his claim.

Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review. As discussed by the Magistrate Judge, this Court is without authorization to consider Petitioner's second habeas corpus petition without authorization for filing from the United States Court of Appeals for the Sixth Circuit. 28 U.S.C. § 2244(b)(3)(A).

Petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action hereby is **TRANSFERRED** to the United States Court of Appeals for the Sixth Circuit for authorization for filing as a successive petition.

IT IS SO ORDERED.

 10-4-2011

EDMUND A. SARGUS, JR.
United States District Judge