

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

PAUL HARRINGTON, JR.,

Petitioner,

vs.

WARDEN, CHILLICOTHE
CORRECTIONAL INSTITUTION,

Respondent.

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Case No. 3:08cv302

JUDGE WALTER HERBERT RICE

DECISION AND ENTRY ADOPTING (WITH TWO EXCEPTIONS)
REPORT AND RECOMMENDATIONS OF UNITED STATES
MAGISTRATE JUDGE (DOC. #28) AND OVERRULING PETITIONER'S
OBJECTIONS (DOC. #29) THERETO; JUDGMENT TO ENTER IN
FAVOR OF RESPONDENT AND AGAINST PETITIONER; LEAVE TO
APPEAL *IN FORMA PAUPERIS* GRANTED; CERTIFICATE OF
APPEALABILITY GRANTED ON GROUNDS TWO AND THREE AND
DENIED ON GROUNDS ONE AND FOUR; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge, in his Report and Recommendations filed July 27, 2009 (Doc. #28), as well as upon a thorough *de novo* review of this Court's file and the applicable law, said Report and Recommendations are, with two minor exceptions, adopted in their entirety. The Petitioner's Objections to said judicial filing (Doc. #29) are overruled. Judgment will be ordered entered in favor of Respondent and against Petitioner herein, upon the merits of the Petitioner's Petition for Writ of Habeas Corpus.

As to the two minor exceptions referenced above, while this Court feels that its decision would not be debatable among jurists of reason, with regard to Grounds One and Four of the Petition, it does believe that such reasonable jurists could well disagree with this Court's decision as to Grounds Two and Three (treated by the Magistrate Judge and the undersigned as one ground), and that, with regard to Grounds Two and Three, Petitioner has made a substantial showing of the denial of a constitutional right. Accordingly, this Courts grants the Petitioner leave to appeal *in forma pauperis* and grants a Certificate of Appealability as to Grounds Two and Three of his Petition.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

August 17, 2009

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Paul Harrington, Jr., Pro Se Petitioner
Diane Mallory, Esq.

Magistrate Judge Michael R. Merz