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


JERALD ALLEN MARTIN,

                Petitioner,

        vs.

STATE OF OHIO,

                Respondent.

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Case No. 3:09cv146

JUDGE WALTER HERBERT RICE

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DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE (DOC. #3) IN THEIR
ENTIRETY; PETITIONER'S OBJECTIONS TO SAID JUDICIAL FILING
(DOC. #4) OVERRULED; JUDGMENT TO ENTER IN FAVOR OF
RESPONDENT AND AGAINST PETITIONER HEREIN, DENYING PETITION
FOR WRIT OF HABEAS CORPUS AS BARRED BY THE APPLICABLE
STATUTE OF LIMITATIONS; CERTIFICATE OF APPEALABILITY IS NOT
TO ISSUE; ANTICIPATED REQUEST TO APPEAL *IN FORMA PAUPERIS*
DENIED; TERMINATION ENTRY

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Pursuant to the reasoning and citations of authority set forth by the United

States Magistrate Judge, in her Report and Recommendations filed April 20, 2009

(Doc. #3), as well as upon a thorough *de novo* review of this Court's file and the

applicable law, this Court adopts said Report and Recommendations in their

entirety, and overrules the Petitioner's Objections (Doc. #4) thereto.

Regardless of the merits of the Petition, it is clear, without doubt, that said

claims are barred by the one-year statute of limitations set forth in the Anti-

terrorism and Effective Death Penalty Act of 1996.

Given that Petitioner has failed to make a substantial showing of the denial

of a constitutional right and that reasonable jurists would not find it debatable as to

whether the captioned matter is time barred, this Court denies the Petitioner a

Certificate of Appealability.  Moreover, given that any appeal from this Court's

decision would be <u>objectively</u> frivolous, any requested leave to appeal *in forma*

*pauperis* is denied.


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

September 23, 2009

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE


Copies to:

Jerald Allen Martin, Pro Se Petitioner