

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

WARREN EASTERLING,	:	Case No. 3:13-cv-24
	:	
Petitioner,	:	Judge Timothy S. Black
	:	Magistrate Judge Michael R. Merz
vs.	:	
	:	
STATE OF OHIO,	:	
	:	
Respondent.	:	

DECISION AND ENTRY: (1) ADOPTING THE REPORTS AND RECOMMENDATIONS OF THE MAGISTRATE JUDGE (Docs. 41, 44); (2) STRIKING PETITIONER'S OBJECTIONS (Doc. 39) AS UNTIMELY; (3) OVERRULING PETITIONER'S OBJECTIONS REGARDING HIS REQUEST FOR LEAVE TO APPEAL IN FORMA PAUPERIS (Doc. 45); (4) DENYING PETITIONER'S MOTION TO AMEND (Doc. 40) AS MOOT; AND (5) DENYING PETITIONER'S MOTION FOR LEAVE TO APPEAL IN FORMA PAUPERIS (Doc. 42)

This civil case is before the Court on the untimely filed Objections of Petitioner (Doc. 39),¹ Petitioner's Motion to Amend (Doc. 40), Petitioner's Motion for Leave to Appeal In Forma (Doc. 42) and the Reports and Recommendations of United States Magistrate Judge Michael R. Merz concerning those Petitioner's aforementioned filings (Docs. 41, 44). Petitioner filed an objection to the Magistrate Judge's recommendation that he be denied leave to appeal in forma pauperis. (Doc. 45). Petitioner did not object

¹ On August 16, 2013, United States Magistrate Judge Michael R. Merz issued a Report and Recommendations recommending that Respondent's Motion to Dismiss the Amended Complaint be granted, that Petitioner's Amended Motion for Preliminary Injunction be denied and that this case be dismissed with prejudice. (Doc. 36). Pursuant to the applicable Federal Rules of Civil Procedure, Petitioner was to file objections on or before September 3, 2013. In the absence of objections, and based on an de novo review, the Court issued an order adopting the Report and Recommendations on September 4, 2013. Petitioner filed Objections on September 6, 2013. Even assuming Petitioner correctly represents that the Report and Recommendations were postmarked August 19, 2013, at the latest, Petitioner was to file objections on or before September 5, 2013. Thus, Petitioner's objections (Doc. 39) to the Report and Recommendations (Doc. 36) were untimely whether served on August 16, 2013 or August 19, 2013.

to the Magistrate Judge's recommendation that Petitioner's previous objections be stricken and that Petitioner's Motion for Leave be denied as moot, and the time for doing so expired on September 26, 2013.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge in his Reports and Recommendations de novo. Upon review of the issues presented, the Court:

(1) **ADOPTS** the Reports and Recommendations of the Magistrate Judge (Doc. 41, 44) in their entirety; (2) **STRIKES** Petitioner's Objections filed September 6, 2013 (Doc. 39) as untimely; (3) **OVERRULES** Petitioner's Objections filed September 25, 2013 (Doc. 45); (4) **DENIES** Petitioner's Motion to Amend (Doc. 40) as moot; and (5) **DENIES** Petitioner Motion for Leave to Appeal In Forma Pauperis (Doc. 42).

IT IS SO ORDERED.

Date: 10/18/13

/s/ Timothy S. Black
Timothy S. Black
United States District Judge