

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

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| RONALD G. JOHNSON, | : | |
| Petitioner, | | |
| v. | : | Case No. 3:15-cv-407 |
| ERNIE MOORE, Warden, Lebanon Correctional Institution, | : | JUDGE WALTER H. RICE |
| Respondent. | : | |

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE JUDGE'S SUBSTITUTED REPORT AND RECOMMENDATIONS (DOC. #14, AS SUPPLEMENTED BY DOC. #20); OVERRULING PETITIONER'S OBJECTIONS THERETO (DOCS. ##16, 22); SUSTAINING RESPONDENT'S MOTION TO DISMISS (DOC. #8); OVERRULING PETITIONER'S REQUEST FOR ALTERNATIVE WRIT (DOC. #19); DISMISSING WITH PREJUDICE PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF HABEAS CORPUS (DOC. #2); JUDGMENT TO ENTER IN FAVOR OF RESPONDENT AND AGAINST PETITIONER; DENYING CERTIFICATE OF APPEALABILITY AND LEAVE TO APPEAL *IN FORMA PAUPERIS*; TERMINATION ENTRY

Based on the reasoning and citations of authority set forth by United States Magistrate Judge Michael R. Merz in his Substituted Report and Recommendations (Doc. #14, as supplemented by Doc. #20), as well as upon a thorough *de novo* review of this Court's file and the applicable law, the Court ADOPTS said judicial filing in its entirety, and OVERRULES Petitioner's Objections thereto (Docs. ##16, 22), along with Petitioner's request for an Alternative Writ (Doc. #19).


Because the Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus (Doc. #2) is time-barred, and Petitioner has failed to establish entitlement to statutory or equitable tolling, the Court SUSTAINS Respondent's Motion to Dismiss (Doc. #8), and DISMISSES the Petition (Doc. #2) WITH PREJUDICE.

Given that Petitioner has not made a substantial showing of the denial of a constitutional right and, further, that the Court's decision herein would not be debatable among reasonable jurists, and because any appeal from this Court's decision would be *objectively* frivolous, Petitioner is denied a certificate of appealability, and denied leave to appeal *in forma pauperis*.

Judgment will be entered in favor of Respondent and against Petitioner.

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

Date: August 2, 2016



WALTER H. RICE
UNITED STATES DISTRICT JUDGE