

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**ERIC SUTTON,**

**Petitioner,**

**v.**

**ZACH ROECKEMAN,**

**Respondent.**

**Case No. 11-cv-908-DRH**

**ORDER**

**HERNDON, Chief Judge:**

On October 6, 2011, petitioner Eric Sutton filed this petition pursuant to 28 U.S.C. § 2254 against the respondent, Ty Bates,<sup>1</sup> warden of the Big Muddy River Correctional Center (Doc. 1). Specifically, petitioner raised a claim of actual innocence of his 1998 murder and attempted murder convictions. On November 27, 2012, pursuant to 28 U.S.C. § 636(b)(1)(B), United States Magistrate Judge Phillip M. Frazier submitted a Report and Recommendation (“R&R”) (Doc. 19) recommending that the Court deny and dismiss petitioner’s § 2254 motion on the basis that petitioner’s claim of actual innocence is not a cognizable ground for federal habeas corpus relief. The R&R also recommended that not certificate of appealability should issue.

The R&R was sent to the parties with a notice informing them of their right to

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<sup>1</sup>Magistrate Judge Frazier substituted Zach Roeckeman, Big Muddy’s current warden, as the respondent pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

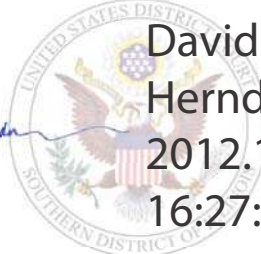
appeal by way of filing “objections” on or before December 14, 2012. To date, none of the parties have filed objections, and the period in which to file objections has expired. Therefore, pursuant to 28 U.S.C. § 636(b), this Court need not conduct *de novo* review. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1985).

Thus, the Court adopts the R&R in its entirety. Petitioner’s § 2254 motion is denied, and this case is dismissed with prejudice. No certificate of appealability shall be issued.

**IT IS SO ORDERED.**

Signed this 18th day of December, 2012.

  
David R.  
Herndon  
2012.12.18  
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**Chief Judge  
United States District Court**