

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD C. RICHARDSON,

Petitioner,

Case No. 11-13632
HON. GERSHWIN A. DRAIN

vs.

WILLIE SMITH,

Respondent.

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION [#25] DENYING PETITION FOR WRIT OF
HABEAS CORPUS AND DENYING CERTIFICATE OF APPEALABILITY

On March 22, 2013, Magistrate Judge Paul Komives filed a report and recommendation that recommended the Court deny Petitioner's petition for a writ of habeas corpus because his claims lack merit. The report also recommended denying Petitioner a certificate of appealability.

On January 29, 2009, petitioner was convicted of two counts of assault with intent to commit great bodily harm less than murder, MICH. COMP. LAWS § 750.84; and possession of a firearm during the commission of a felony, MICH. COMP. LAWS § 750.227b, following a jury trial in the Wayne County Circuit Court. On February 26, 2009, he was sentenced to concurrent terms of 3-10 years' imprisonment on each assault conviction, and to a mandatory consecutive term of two years' imprisonment on the felony-firearm conviction.

On April 9, 2013, Petitioner filed his objections to the report and recommendation. Upon review of the report and recommendation and Petitioner's objections, the Court concludes that the Magistrate Judge reached the correct conclusion for the proper reasons. Petitioner's petition for a writ of habeas corpus is denied and a certificate of appealability shall not issue in this matter.

"The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made." FED. R. CIV. P. 72(b). Petitioner has failed to make any specific objections to the report and recommendation in his written objections.

Petitioner made several statements in his objections. First, he states that he stands by his previous filings and addendums. A general restating of arguments already disposed of in the report and recommendation does not constitute an objection. See *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505, 508 (6th Cir. 1991). Thus, a statement that the Petitioner stands by his previous arguments is definitely not an objection. The Magistrate Judge carefully considered and rejected Petitioner's claims and Petitioner's assertion that he stands by previous statements is not sufficient to cast doubt on these findings.

The only other statements that could possibly be considered objections are that the Magistrate Judge usually enters recommendations against those seeking habeas review and that the Magistrate Judge "followed almost word for word the victims and state court's words and rulings." Pet'r's Objections 2. Since these statements do not actually object to

the findings of the Magistrate Judge, this Court has not been properly presented with a “specific written objection” to consider.

For the reasons set forth above, Magistrate Judge Paul Komives’ March 22, 2013 report and recommendation is ACCEPTED and ADOPTED as this Court’s conclusions of law.

Petitioner’s petition for a writ of habeas corpus is DENIED and this cause of action is dismissed.

A certificate of appealability shall not issue.

SO ORDERED.

Dated: April 23, 2013

S/Gershwin A. Drain
GERSHWIN A. DRAIN
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on April 23, 2013, by electronic and/or ordinary mail.

S/Tanya Bankston
Deputy Clerk