

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GREGORY HARDY,

Petitioner,

v

WILLIE O. SMITH,

Respondent.

Case No. 1:08-cv-321

HON. JANET T. NEFF

FINAL ORDER

This is a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation, recommending that the petition be dismissed upon initial screening for failure to state a meritorious federal claim. The matter is presently before the Court on Petitioner's objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Final Order pursuant to FED. R. CIV. P. 58.

Petitioner's objections do not reveal any error by the Magistrate Judge. First, the Magistrate Judge acknowledged that Petitioner's claim disputes the failure of the Michigan Parole Board to correct inaccuracies in Petitioner's Parole Guideline Scoresheet for years 2002, 2003 and 2004. The Magistrate Judge correctly opined that Petitioner did not raise a constitutional issue because Petitioner has no liberty interest in being released on parole.

The Magistrate Judge also correctly concluded that Michigan's statutory parole scheme creates no liberty interest in parole and that Petitioner failed to show that the Michigan Parole Board relied upon the alleged erroneous information contained in the Parole Guidelines Scoresheet "to a constitutionally-significant degree" (Report and Recommendation at 7).

Last, the Magistrate Judge correctly concluded that Petitioner was not required to exhaust his claims as no available state court remedy exists for Petitioner's denial of parole.

Having so determined, the Court must further determine pursuant to 28 U.S.C. § 2253(c) whether to grant a certificate of appealability as to the issues raised regarding the parole denials. The Court must review the issues individually. *Slack v. McDaniel*, 529 U.S. 473 (2000); *Murphy v. Ohio*, 263 F.3d 466, 466-67 (6th Cir. 2001).

"Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack*, 529 U.S. at 484. Upon review, this Court finds that reasonable jurists would not find the Court's assessment of Petitioner's claims debatable or wrong. A certificate of appealability will therefore be denied as to each issue asserted.

THEREFORE, IT IS ORDERED that the objections (Dkt 9) are DENIED and the Report and Recommendation of the Magistrate Judge (Dkt 7) is APPROVED and ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED that the petition for habeas corpus relief (Dkt 1) is DISMISSED for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that Petitioner's Motion to Serve Complaint (Dkt 8); Request for Appointment of Counsel (Dkt 10); Motion to Amend (Dkt 11); and Request for Court Record(s) Lost or Destroyed (Dkt 13) are DENIED as moot.

IT IS FURTHER ORDERED that a certificate of appealability pursuant to 28 U.S.C. § 2253(c) is DENIED as to each issue asserted.

Date: October 22, 2008

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge