

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHERMAN WASHINGTON,

Petitioner,

CASE NO. 1:14-CV-1009

v.

HON. ROBERT J. JONKER

CARMEN D. PALMER,

Respondent.

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Kent's Report and Recommendation in this matter (ECF No. 56) and Petitioner Washington's Objection to it (ECF No. 62). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . as a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Petitioner's Objection to it. After its review, the Court

finds that Magistrate Judge Kent's Report and Recommendation is factually sound and legally correct.

None of Petitioner's objections compel a different result. The Magistrate Judge recommends denying the habeas petition on the basis that Petitioner has failed to establish that the state court decisions on the trial court's evidentiary rulings and Petitioner's ineffective assistance of counsel claim were contrary to, or unreasonably applied, clearly established law as articulated by the Supreme Court. Petitioner's objections are lengthy, but they contain little by way of specific objections to the Magistrate Judge's analysis. Moreover nothing in Petitioner's objections compels a different result than that recommended by the Magistrate. The Court agrees with the Magistrate Judge's conclusion that the petition should be denied for the very reasons articulated by the Magistrate Judge.

CONCLUSION

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 56) is **APPROVED AND ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that:

1. The Petition for Writ of Habeas Corpus (ECF No. 1) is **DENIED** and this case is **DISMISSED**.
2. Petitioner is **DENIED** a certificate of appealability. *See Slack v. McDaniel*, 529 U.S. 473 (2000).

Dated: December 15, 2017

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE