

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHNNIE GATES,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:12CV1719 RWS
)	
TROY STEELE,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court on the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 filed by Johnnie Gates. The Court referred this matter to United States Magistrate Judge Abbie S. Crites-Leoni for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On May 26, 2015, Judge Crites-Leoni filed her 23-page Report and Recommendation that petitioner’s habeas petition should be denied. [19]. Although no final Judgment has been entered in this case, petitioner filed a document entitled Notice of Appeal, which the Court has liberally construed as an objection to the Report and Recommendation. [21]. This document contains no specific objections or alleged points of error, and no additional objections (timely or otherwise) were filed by petitioner. In this Circuit, “objections must be timely and specific to trigger de

novo review by the District Court of any portion of the magistrate's report and recommendation." Thompson v. Nix, 897 F.2d 356, 357-58 (8th Cir. 1990). In addition, as petitioner was warned by Judge Crites-Leoni, his failure to file timely objections has resulted in a "waiver of [his] right to appeal questions of fact." Id. at 357. As petitioner has filed no timely and specific objections to the Report and Recommendation issued on May 26, 2015, this Court is not required to conduct a de novo review of all matters relative to petitioner's objections. After careful consideration, I will adopt and sustain Judge Crites-Leoni's thorough Report and Recommendation in its entirety.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because petitioner has not made such a showing, I will not issue a certificate of appealability.

Accordingly,

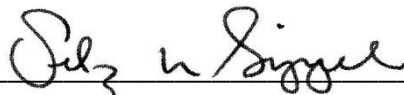
IT IS HEREBY ORDERED that the Report and Recommendation filed on May 26, 2015 [19] is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that petitioner's objections to the Report and Recommendation [21] are overruled.

IT IS FURTHER ORDERED that Petitioner's Petition for Writ of Habeas Corpus [1] is denied.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate judgment in accordance with this Memorandum and Order is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 16th day of June, 2015.