

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|-------------------------------|---|---|
| Jerome Carter, |) | CASE NO. 1:07 CV 3125 |
| |) | |
| Petitioner, |) | JUDGE PATRICIA A. GAUGHAN |
| |) | |
| vs. |) | |
| |) | |
| Stuart Hudson, Warden, |) | <u>Memorandum of Opinion and Order</u> |
| |) | |
| Respondent. |) | |

Introduction

This matter is before the Court upon the Report and Recommendation of Magistrate Judge Benita Pearson (Doc. 25) which recommends denial of the Petition for Writ of Habeas Corpus pending before the Court. For the following reasons, the Report and Recommendation is ACCEPTED.

Facts

Petitioner, Jerome Carter, commenced this action with the filing of a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. The Magistrate Judge issued her Report and Recommendation recommending that the Petition be denied. Petitioner has failed to file

objections to the Report and Recommendation.

Standard of Review

Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts provides, “The judge must determine *de novo* any proposed finding or recommendation to which objection is made. The judge may accept, reject, or modify any proposed finding or recommendation.” When no objections have been filed this Court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See* Advisory Committee Notes 1983 Addition to Federal Rule of Civil Procedure 72.

Discussion

Petitioner is serving a life sentence without possibility of parole following his conviction by a jury of numerous charges including aggravated murder.

The Magistrate Judge found Ground Two of the Petition to be non-cognizable under § 2254 review in that it was premised solely on state law. This Court agrees.

The Magistrate Judge determined that the adjudication by the state court as to Grounds One and Three was not contrary to, nor an unreasonable application of, clearly established federal law. Upon review, the Court finds no clear error.

This Court fully agrees with the reasoning and conclusions of the Magistrate Judge and, having found no clear error, completely adopts her factual and legal conclusions as its own and incorporates them herein by reference. Accordingly, for the reasons set forth in the Magistrate Judge’s Report and Recommendation, the Petition for Writ of Habeas Corpus is denied.

Conclusion

For the foregoing reasons, the Report and Recommendation recommending dismissal of the Petition for Writ of Habeas Corpus is accepted. Furthermore, the Court determines, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed.R.App.P. 22(b).

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Judge

Dated: 10/21/10