

Case No. 1:09-CV-2770
Gwin, J.

petition for writ of habeas corpus. [\[Doc. 13.\]](#) On May 7, 2011, Petitioner Turner moved for reconsideration, claiming that he never received the Report and Recommendation and was therefore unable to file a timely objection. [\[Doc. 14.\]](#) Though the Petitioner's claims did not support a motion to reconsider, the Court construed the request for reconsideration as a motion for extension of time, and allowed Petitioner Turner until June 30, 2011 to file an objection. [\[Doc. 19.\]](#) Petitioner Turner did not file any objection during the extension period and has not filed any since. Accordingly, the Court **ADOPTS** in whole Magistrate Judge Limbert's Report and Recommendation.

The Petitioner's contemporaneous appeal to the Sixth Circuit precludes any further consideration of his petition by this Court. The Petitioner filed a Notice of Appeal to the Sixth Circuit docketed on May 26, 2011. [\[Doc. 15.\]](#) Filing a notice of appeal divests a district court of jurisdiction until the Court of Appeals remands the case. See [United States v. Garcia-Robles, 562 F.3d 763, 767 \(6th Cir. 2009\)](#); [Dunham v. United States, 486 F.3d 931, 935 \(6th Cir. 2007\)](#). The Sixth Circuit held the appeal in abeyance to allow this Court to rule on any pending objections, but returned the appeal to its active docket when the objection period expired. *Turner v. Brunsman*, No. 11-3623 (6th Cir. July 20, 2011). This action is therefore terminated under Federal Rule of Civil Procedure 58.

IT IS SO ORDERED.

Dated: August 13, 2011

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE