

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Jayson Battiste,

Case No. 1:17 CV 128

Petitioner,

ORDER DISMISSING PETITION

-vs-

JUDGE JACK ZOUHARY

Michelle Miller,

Respondent.

Petitioner *pro se* Jayson Battiste, a prisoner in state custody, filed a Petition for a Writ of Habeas Corpus (Doc. 1). The case was referred to United States Magistrate Judge Thomas Parker for a Report and Recommendation (R&R) under Local Rule 72.2(b)(2). Petitioner then filed a Motion to Stay, seeking to hold these proceedings in abeyance pending exhaustion of his state remedies (Doc. 7).

The Magistrate Judge filed an R&R on April 18, 2017, recommending that Petitioner's Motion to Stay be denied (Doc. 11). Under 28 U.S.C. § 636(b)(1), a party must serve written objections to the Magistrate Judge's proposed findings and recommendations within fourteen days of being served with the R&R, at which point this Court will make a *de novo* determination of those portions of the R&R to which objections were made. The failure to file written objections constitutes a waiver of a *de novo* review by the district court. *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005); *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Petitioner's deadline for filing objections has passed, and no requests for extension have been received. The R&R accurately states the facts and law, and this Court adopts it in its entirety. Accordingly, Petitioner's Motion to Stay (Doc. 7) is denied. Further, because Petitioner has not yet exhausted his available state court remedies, his Petition for Writ of Habeas Corpus (Doc. 1) is dismissed. *See* 28 U.S.C. § 2254(b); *Rhines v. Weber*, 544 U.S. 269, 275 (2005); *Rose v. Lundy*, 455 U.S. 509, 522 (1982).

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

May 8, 2017