

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

GERMAINE JOHNSON)	
(#A672294),)	CASE NO. 1:17CV1722
)	
Petitioner,)	
)	JUDGE BENITA Y. PEARSON
v.)	
)	
CHAE HARRIS, ¹ Warden,)	
)	<u>MEMORANDUM OF OPINION</u>
Respondent.)	<u>AND ORDER</u>

Pro Se Petitioner Germaine Johnson filed a Petition for a Writ of Habeas Corpus pursuant to [28 U.S.C. § 2254](#) ([ECF No. 1](#)) alleging four (4) grounds for relief which challenge the constitutional sufficiency of his convictions and sentence in Cuyahoga County, Ohio Court of Common Pleas Case No. [CR-14-591449-A](#). Petitioner was sentenced to 17 months in prison on Count 1 as amended (gross sexual imposition) and eight (8) years in prison on Count 3 as amended (robbery). The trial court ordered that both counts be served concurrently for a total of 8 years of imprisonment. The court classified Petitioner as a Tier I sex offender and ordered him to pay \$1,537.99 as the stipulated amount of restitution. Journal Entry ([ECF No. 5-1 at PageID #: 52-53](#)). The case was referred to Magistrate Judge David A. Ruiz for preparation of a report and recommendation pursuant to [28 U.S.C. § 636](#) and [Local Rule 72.2\(b\)\(2\)](#). On October 31,

¹ According to the Ohio Department of Rehabilitation & Correction website (<https://appgateway.drc.ohio.gov/OffenderSearch/Search/Details/A672294>) (last visited November 25, 2019)), Petitioner is now confined at the Lebanon Correctional Institution. The Warden of that institution, Chae Harris, has been substituted for Lyneal Wainwright, Warden.

(1:17CV1722)

2019, the magistrate judge issued a Report and Recommendation ([ECF No. 6](#)). In his Report, the magistrate judge recommends that the Court deny the habeas petition because the grounds are procedurally defaulted. Although Petitioner raised his claims at the Ohio Court of Appeals through his direct appeal, [State v. Johnson, No. 103408, 2016 WL 2587209 \(Ohio App. 8th Dist. May 5, 2016\)](#) ([ECF No. 5-1 at PageID #: 114-30](#)), he failed to timely appeal the denial of those claims to the Supreme Court of Ohio; and, the Ohio Supreme Court denied his motion for leave to file a delayed appeal, [State v. Johnson, 146 Ohio St.3d 1489 \(2016\)](#) ([ECF No. 5-1 at PageID #: 155](#)). When a petitioner's claims are procedurally defaulted, federal habeas review is barred unless the petitioner can demonstrate cause and prejudice. [Coleman v. Thompson, 501 U.S. 722, 750 \(1991\)](#). Petitioner has failed to file a traverse or offer an explanation for his failure to file a timely notice of appeal with the Ohio Supreme Court. Accordingly, reasonable jurists would not debate the determination that Petitioner failed to show cause excusing the procedural default.

[Fed. R. Civ. P. 72\(b\)\(2\)](#) provides that objections to a report and recommendation must be filed within 14 days after service. Objections to the Report were, therefore, due on November 18, 2019.² Neither party has timely filed objections. Therefore, the Court must assume that the parties are satisfied with the magistrate judge's recommendations. Any further review by this Court would be a duplicative and inefficient use of the Court's limited resources. [Thomas v. Arn, 728 F.2d 813 \(6th Cir. 1984\)](#), *aff'd*, 474 U.S. 140 (1985); [Howard v. Secretary of Health and Human Services, 932 F.2d 505 \(6th Cir. 1991\)](#); [United States v. Walters, 638 F.2d 947, 949-50 \(6th Cir. 1981\)](#).

² Under [Fed. R. Civ. P. 6\(d\)](#), three (3) days must be added to the 14-day time period because Petitioner was served a copy of the Report by mail. See [Thompson v. Chandler, 36 Fed.Appx. 783, 784 \(6th Cir. 2002\)](#).

(1:17CV1722)

Accordingly, the Report and Recommendation of the magistrate judge is hereby adopted. Germaine Johnson's Petition for a Writ of Habeas Corpus will be dismissed.

The Court certifies, 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.

November 26, 2019
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge