

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

HOWARD L. DRAKE,)	CASE NO. 1:18CV2937
)	
Petitioner,)	JUDGE CHRISTOPHER A. BOYKO
)	
vs.)	
)	
DAVE MARQUIS, Warden,)	MEMORANDUM OF
)	OPINION AND ORDER
Respondent.)	

CHRISTOPHER A. BOYKO, J.:

This matter is before on the court on Magistrate Judge Jonathan D. Greenberg’s Report and Recommendation (Doc. 15) to deny Petitioner Howard Drake’s request for an evidentiary hearing and dismiss his Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) as procedurally defaulted. Objections to the Report and Recommendation were due by October 19, 2020.¹ Petitioner has not filed an objection to the Report and Recommendation.

Federal Rule of Civil Procedure 72(b) provides that objections to a report and recommendation must be filed within fourteen days after service. FED. R. CIV. P. 72(b)(2). Petitioner has failed to timely file any such objection. Therefore, the Court must assume that Petitioner is satisfied with the Magistrate Judge’s recommendation. Any further review by this Court would be duplicative and an inefficient use of the Court’s limited resources. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

¹ Petitioner timely requested more time to file an objection to the Report and Recommendation. (See Doc. 16). The Court granted his request. (See Non-Doc. Entry, 10/16/2020).

Accordingly, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge; **DENIES** Petitioner's request for an evidentiary hearing; and **DISMISSES** Petitioner's Petition as procedurally defaulted.

The Court finds an appeal from this decision could not be taken in good faith. 28 U.S.C. § 1915(a)(3). Since Petitioner has not made a substantial showing of a denial of a constitutional right directly related to his conviction or custody, the Court declines to issue a certificate of appealability. 28 U.S.C. § 2253(c)(2); FED. R. APP. P. 22(b); Rule 11 of Rules Governing § 2254 Cases.

IT IS SO ORDERED.

s/ Christopher A. Boyko
CHRISTOPHER A. BOYKO
Senior United States District Judge

Dated: January 15, 2021