

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DONZELL WARD,

CASE NO. 1:19 CV 2448

Petitioner,

v.

JUDGE JAMES R. KNEPP II

WARDEN DAVID W. GRAY,

**MEMORANDUM OPINION AND
ORDER**

Respondent.

This matter is before the Court on Magistrate Judge Jonathan D. Greenberg's Report and Recommendation ("R&R") to dismiss in part and deny in part Petitioner Donzell Ward's Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254. (Doc. 11). Specifically, Judge Greenberg recommends the Court find Ground One non-cognizable to the extent it relies on a violation of Ohio law, procedurally defaulted in part, and meritless in part on AEDPA review; Ground Two meritless on AEDPA review; Ground Three waived in part and procedurally defaulted in part; and Ground Four both procedurally defaulted and non-cognizable. *See id.* at 6-30.

Under the relevant statute:

Within fourteen days of being served with a copy [of a Magistrate Judge's R&R], any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(2). The failure to file timely written objections to a Magistrate Judge's R&R constitutes a waiver of *de novo* review by the district court of any issues covered in the R&R. *Thomas v. Arn*, 728 F.2d 813, 814-15 (6th Cir. 1984); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

In this case, the R&R was issued on November 1, 2021, and it is now December 7, 2021. Petitioner has neither filed objections nor requested an extension of time to file them. Despite the lack of objections, the Court has reviewed Judge Greenberg's R&R, and agrees with the findings and recommended rulings therein. Therefore, the Court ADOPTS Judge Greenberg's R&R (Doc. 11) as the Order of this Court, and DENIES and DISMISSES Petitioner's Petition (Doc. 1) as set forth therein.

The Court finds an appeal from this decision could not be taken in good faith. 28 U.S.C. § 1915(a)(3). Further, because 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/ James R. Knepp II
UNITED STATES DISTRICT JUDGE