

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

| | | |
|---------------------|---|-----------------------------------------|
| BRANDON SMITH, |) | |
| |) | CASE NO. 1:21CV1705 |
| Petitioner, |) | |
| |) | |
| v. |) | JUDGE BENITA Y. PEARSON |
| |) | |
| WARDEN KEITH FOLEY, |) | |
| |) | |
| |) | <u>MEMORANDUM OF OPINION AND</u> |
| |) | <u>ORDER</u> |
| Respondent. |) | [Regarding ECF No. 15] |

On February 21, 2023, the assigned magistrate judge issued a Report and Recommendation suggesting that Petitioner Smith's sole claim in his Petition for habeas relief is procedurally defaulted and without merit. *See* [ECF No. 15](#). Ultimately, the Report and Recommendation urges the dismissal or denial of the petition for a writ of habeas corpus.

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a Report and Recommendation within fourteen days of service. *Id.*; [Fed. R. Civ. P. 72\(b\)\(2\)](#). Absent objections, a district court may adopt a magistrate judge's report without review. *See* [Thomas v. Arn, 474 U.S. 140, 149 \(1985\)](#).

Objections to the Report and Recommendation were due by March 7, 2023. None of the parties have filed an objection¹. Accordingly, the Court adopts the Report and Recommendation.

¹ Petitioner filed a Motion for Extension of Time to File Objections until March 28, 2023. *See* [ECF No. 16](#). Petitioner subsequently filed a Notice of Withdrawal of that motion on March 16, 2023. *See* [ECF No. 17](#).

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[ECF No. 15](#). The Petition is dismissed as procedurally defaulted or, in the alternative, denied as being without merit.

Additionally, 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.

August 7, 2023

Date

/s/ Benita Y. Pearson

Benita Y. Pearson
United States District Judge