

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

RICKY DANIELS,)	Case No. 3:08 CV 697
)	
Petitioner,)	Judge Dan Aaron Polster
)	
vs.)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
CARL ANDERSON, Warden,)	
)	
Respondent.)	

Before the Court is the Report and Recommendation of Magistrate Judge Pearson (“R&R”) (ECF No. 15), recommending that the Court dismiss the application for writ of habeas corpus filed by Petitioner Ricky Daniels pursuant to 28 U.S.C. § 2254 (“§ 2254 petition”) (ECF No. 1). Daniels is presently incarcerated at Toledo Correctional Institution serving an aggregate prison sentence of 18 years for involuntary manslaughter and child endangering convictions. Daniels challenges the imposition of consecutive sentences, and the constitutionality of his greater-than-minimum sentences and resentences.

Under the relevant statute:

Within ten days after being served with a copy, 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)(C) (1988) (emphasis added). The R&R was issued on November 20,

2009, and was mailed to Daniels on November 25, 2009. (Respectively, ECF No. 25 and non-document entry of 11/25/2009.) It is now December 30, 2009, and Daniels has filed neither objections nor a request for an extension of time to file objections.

The failure to timely file written objections to a Magistrate Judge's report and recommendation constitutes waiver of a *de novo* determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the thorough, well-written R&R and agrees with the Magistrate Judge's conclusions that the first ground for relief is not cognizable, and the second and third grounds for relief lack merit for the reasons explained in detail therein. Accordingly, the Court hereby **ADOPTS** the R&R (**ECF No. 15**) and **DENIES** the § 2254 petition (**ECF No. 1**).

IT IS SO ORDERED.

/s/ Dan Aaron Polster December 30, 2009
Dan Aaron Polster
United States District Judge