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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

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CORY A. PERKINS, : CASE NO. 3:14-cv-02572

Petitioner,

tioner,

v. : OPINION & ORDER

: [Resolving Docs. <u>1</u>, <u>17</u>]

MICHELLE MILLER, Warden,

:

Respondent.

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## JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Petitioner Cory Perkins seeks a writ of habeas corpus under <u>28 U.S.C. § 2254</u> to vacate his conviction on three counts of rape. On June 19, 2015, Perkins filed a motion to stay his petition or to dismiss it without prejudice. Perkins concedes that he has not yet exhausted state remedies with regard to the claims in his petition. On June 26, 2015, Magistrate Judge Limbert issued a Report and Recommendation ("R&R"), recommending that the Court deny Perkins's motion to stay, but grant Perkins's motion to dismiss his petition without prejudice. Magistrate Judge Limbert further recommended that Perkins's motion for an evidentiary hearing be denied as moot.

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a R&R to which a party has made an objection. <sup>7</sup> Parties must file any objections

 $<sup>\</sup>frac{1}{2}$ Doc.  $\underline{1}$ .

 $<sup>\</sup>frac{2}{1}$ Doc. 15.

 $<sup>\</sup>frac{3}{I}$ *Id*.

 $<sup>\</sup>frac{4}{1}$ Doc. 17.

 $<sup>\</sup>frac{5}{1}$ Doc. 5.

 $<sup>\</sup>frac{6}{7}$ Doc. 17 at 3.

<sup>&</sup>lt;sup>7</sup>/<sub>28</sub> U.S.C. § 636(b)(1)(C).

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to a R&R within fourteen days of service. § Failure to object within that time waives a party's right

to have the Court review the R&R.9/

Absent objection, a district court may adopt the R&R without review. 10/2 Neither party has

objected to the R&R. Moreover, having conducted its own review of the record and the parties'

briefing in this case, the Court agrees with the conclusions of Magistrate Judge Limbert.

Accordingly, the Court ADOPTS in whole Magistrate Judge Limbert's R&R and

incorporates it fully herein by reference. The Court **DENIES** Perkins's request to stay his petition,

but GRANTS Perkins's request to dismiss his petition without prejudice. Further, the Court

**DENIES** Perkins's motion for an evidentiary hearing as moot.

IT IS SO ORDERED.

Dated: July 17, 2015 s/ James S. Gwin

JAMES S. GWIN

UNITED STATES DISTRICT JUDGE

<sup>8/</sup>Fed. R. Civ. P. 72(b)(2); LR 72.3(b).

<sup>&</sup>lt;sup>9</sup>/<sub>LR 72.3(b)</sub>; see <u>Thomas v. Arn, 474 U.S. 140, 145 (1985)</u>; <u>United States v. Walters, 638 F.2d 947, 949–50</u> (6th Cir. 1981).

 $<sup>\</sup>frac{10}{See}$  Thomas, 474 U.S. at 149.