

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

NICHOLAS MARTINEZ,)	CASE NO. 3:22-cv-2227
)	
)	
PETITIONER,)	JUDGE SARA LIOI
)	
vs.)	MEMORANDUM OPINION
)	AND ORDER
WARDEN TOM WATSON,)	
)	
)	
RESPONDENT.)	

Before the Court is the Report and Recommendation (“R&R”) (Doc. No. 9) of a magistrate judge with respect to the motion of respondent to dismiss (Doc. No. 8) the above-entitled petition for writ of habeas corpus under 28 U.S.C. § 2254. The R&R recommends granting the motion and dismissing the petition for three reasons: (1) the petition is time-barred; (2) the petition raises only grounds that are outside the scope of federal habeas review; and (3) petitioner failed to exhaust his grounds for relief.

Under 28 U.S.C. § 636(b)(1)(C):

Within fourteen 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. [. . .]

The R&R was filed on July 24, 2023, and was mailed to petitioner’s address of record on that same day by regular mail. Objections would have been due at the latest on August 10, 2023 (allowing 3 days for mail service). As of the date of this order, no objections have been filed, no extension has been requested, and no mail has been returned as undeliverable.

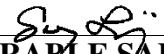
The failure to file timely written objections to a magistrate judge's report and recommendation constitutes a forfeiture of a *de novo* determination by the district court of any issue covered in the report. *See Berkshire v. Dahl*, 928 F.3d 520, 530–31 (6th Cir. 2019); *see also Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985), *reh'g denied*, 474 U.S. 1111 (1986); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the magistrate judge's R&R and accepts the recommendation that respondent's motion to dismiss be granted and the petition dismissed.

Accordingly, the Court denies the petition in its entirety for the reasons set forth in the R&R. Further, the Court certifies 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. §§ 1915(a)(3), 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Dated: August 18, 2023



HONORABLE SARA LIOI
CHIEF JUDGE
UNITED STATES DISTRICT COURT