

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Antwon Lanier,

Case No. 4:08 CV 3033

Petitioner,

MEMORANDUM OPINION
AND ORDER

-vs-

JUDGE JACK ZOUHARY

Phillip Kerns, Warden,

Respondent.

Petitioner Antwon Lanier, a prisoner in state custody, filed a Petition for a Writ of Habeas Corpus (Doc. No. 1). The case was referred to United States Magistrate Judge William Baughman, Jr. for a Report and Recommendation (R&R) pursuant to Local Rule 72.2(b)(2).

The Magistrate Judge filed the R&R on December 8, 2009 (Doc. No. 27). 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). The ten-day period has elapsed and no objections have been filed. The failure to file written objections constitutes a waiver of a *de novo* determination by the district court of an issue covered in the report. *United States v. Sullivan*, 431 F.3d 976, 984 (2005).

The Court has reviewed the R&R, and having found it legally and factually accurate, adopts the R&R in its entirety. Therefore, the Court denies the Petition for Writ of Habeas Corpus (Doc. No. 1). The Motion for Evidentiary Hearing (Doc. No. 25) is also denied.

Petitioner has failed to show the existence of any set of facts upon which he could prevail. Accordingly, under 28 U.S.C. § 1915(a)(3), the Court certifies that an appeal of this action could not be taken in good faith. Further, as Petitioner has failed to make a substantial showing of the denial of a constitutional right, no certificate of appealability shall issue.

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

December 29, 2009