

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

James D. Turner,

Case No. 5:07 CV 819

Petitioner,

MEMORANDUM OPINION
AND ORDER

-vs-

JUDGE JACK ZOUHARY

Michele Eberlin, Warden,

Respondent.

The Court has reviewed the Report and Recommendation of the Magistrate Judge filed October 10, 2008 in this matter. Under the relevant statute (28 U.S.C. § 636(b)(1)(C) (1982)):

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.

In this case, 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 adopts the Magistrate Judge's Report and Recommendation (Doc. No. 35) in its entirety. Petitioner's Motion for Leave to Amend Petition for a Second Time (Doc. No. 27) is denied, and Petitioner's Amended Petition (Doc. No. 14) is denied as moot in light of the January 10, 2007 re-sentencing (Doc. No. 25, Exs. 15-16).

IT IS SO ORDERED.

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

December 16, 2008