

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TREPPEL CHISHOLM)	CASE NO. 5:13CV976
)	
Petitioner,)	JUDGE JOHN R. ADAMS
)	
-vs-)	
)	
NEIL TURNER)	<u>ORDER</u>
Warden,)	
)	
Respondent.)	

This matter came before the Court on Petitioner’s petition for habeas corpus pursuant to 28 U.S.C. §2254. Doc. 1. This Court referred the matter to the Magistrate Judge. On September 30, 2013, Petitioner filed a “Motion to Withdraw as Premature Filing with Affidavit,” in which he requested to withdraw his petition as premature. Doc. 8. Respondent opposed the motion to withdraw. Doc. 13. Petitioner “objected” to Respondent’s opposition. Doc. 15. The Magistrate Judge stated that “[b]ecause Chisholm’s motion is potentially a dispositive motion,” he submitted an interim report and recommendation noting that recommending that the Court deny the motion. Doc. 14.

Fed. R. Civ. P. 72(b) provides that the parties may object to a report and recommendation within 14 days after service. Petitioner did not file any objections to the Magistrate Judge’s report and recommendation. Any further review by this Court would be a duplicative and inefficient use of the Court’s limited resources. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984);

Howard v. Sec'y of Health and Human Servs., 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

Accordingly, the report and recommendation of the Magistrate Judge is hereby adopted. The Motion to “Withdraw as Premature Filing” is hereby denied. Doc. 8. The Court notes that, apparently in lieu of objections to the R&R, Petitioner filed a notice of appeal to the Sixth Circuit Court of Appeals. However, the R&R is not a final, appealable Order and does not dispose of Petitioner’s Petition. The Court concludes that there is no non-frivolous basis for an interlocutory appeal of this Order and therefore the matter remains pending before this Court for review on the merits of the Petition. Out of an abundance of caution, the Court certifies, pursuant to 28 U.S.C. §1915(A)(3), 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.

IT IS SO ORDERED.

Dated: 12/9/13

/s/ John R. Adams

UNITED STATES DISTRICT JUDGE