

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

Zachary John Cleary,

Case No. 5:17 CV 1671

Petitioner,

ORDER ADOPTING
REPORT AND RECOMMENDATION

-vs-

JUDGE JACK ZOUHARY

Warden Kimberly Clipper,

Respondent.

This Court has reviewed the Report and Recommendation (R&R) of the Magistrate Judge filed March 2, 2018 (Doc. 10). The R&R recommends this case be dismissed. Specifically, the R&R concludes that Petitioner waived his claim by failing to state a specific ground for relief (*id.* at 5–6) (citing *McPherson v. Kelsey*, 125 F.3d 989, 995–96 (6th Cir. 1997)). And even if the claim is not deemed waived, the R&R concludes that the record does not support a claim that Petitioner was ignorant of his appellate rights or that the state appellate court denial of his motion for leave to file a delayed appeal was contrary to or an unreasonable application of clearly established federal law (*id.* at 6–8).

Under 28 U.S.C. § 636(b)(1), a party must serve and file written objections to the Magistrate’s proposed findings and recommendations within fourteen (14) days of being served with the R&R, at which time this Court makes a *de novo* determination of those portions of the R&R to which objections were made. The failure to file objections within the time frame set forth in the statute constitutes a waiver of *de novo* review by the district court. See *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). See also *Thomas v. Arn*, 474 U.S. 140 (1985).

Petitioner's deadline for filing objections has passed, and this Court has received no requests for extension. The R&R accurately states the facts and law, and this Court adopts it in its entirety. Accordingly, this case is dismissed.

IT IS SO ORDERED.

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

March 27, 2018