

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

KEITH LAMAR,

Case No. 1-:04-CV-541

Petitioner,

-vs-

Judge Thomas M. Rose

TODD ISHEE, Warden,

Magistrate Judge Michael R. Merz

Respondent.

ENTRY AND ORDER OVERRULING LAMAR'S OBJECTIONS (Doc. #206) TO MAGISTRATE JUDGE MERZ'S REPORT AND RECOMMENDATIONS REGARDING A COA AND LEAVE TO APPEAL IN FORMA PAUPERIS (Doc. 205); ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #205) IN ITS ENTIRETY; GRANTING LAMAR LEAVE TO APPEAL IN FORMA PAUPERIS; GRANTING A COA ON GROUND ONE, ON GROUND FOUR (BOTH ISSUES), ON THE KIDNAPPING SPECIFICATION ISSUE IN GROUND TEN, ON GROUND TWELVE AND ON THE CONSTRUCTIVE AMENDMENT/STATUTE OF LIMITATIONS ISSUES AND DENYING A COA ON THE REMAINING ISSUES FOR WHICH A COA WAS REQUESTED.

This matter is before the Court pursuant to Petitioner Keith LaMar's Objections (doc. #206) to the Report and Recommendations of Magistrate Judge Michael R. Merz (doc. #205). This Report and Recommendations addresses LaMar's Motion for a Certificate of Appealability.

The Warden has responded to LaMar's Objections. (Doc. #207.) Thus, this matter is ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that LaMar's Objections to the Magistrate Judge's Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and

Recommendations is adopted in its entirety.

LaMar is granted leave to appeal in forma pauperis. Further, a Certificate of Appealability (“COA”) is granted on Ground One, on Ground Four (both issues), on the kidnapping specification issue in Ground Ten, on Ground Twelve and on the constructive amendment/statute of limitations issue. A COA on the remaining requested issues is denied.

DONE and ORDERED in Dayton, Ohio, this Twenty-Seventh Day of June, 2011.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record