

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

Patrick Leonard,	:	
	:	Case No. 1:09-cv-56
Petitioner,	:	
	:	Chief Judge Susan J. Dlott
v.	:	
	:	ORDER AFFIRMING AMENDED ORDER
Warden, Ohio State Penitentiary	:	AND SUPPLEMENTAL OPINION
	:	
Respondent.	:	

On July 20, 2010, Magistrate Judge Merz issued an Amended Order Granting in Part and Denying in Part Petitioner’s Motion for Discovery (“Amended Order”) (doc. 25). Petitioner Patrick Leonard filed Objections (doc. 27) to the Amended Order to the extent that Magistrate Judge Merz denied discovery on Petitioner’s claims for *Brady* violations, discriminatory charging and prosecution, and unconstitutional proportionality review. Subsequently, Magistrate Judge Merz issued a Supplemental Opinion in Support of Amended Order (doc. 29) on August 25, 2010 to which Petitioner again filed Objections (doc. 31).

Petitioner has filed his Objections to the Magistrate Judge’s Amended Order and Supplemental Opinion pursuant to 28 U.S.C. § 636(b)(1)(A) and Federal Rule of Civil Procedure 71. This Court shall reconsider pretrial orders to the extent that the orders are clearly erroneous or contrary to law. The clearly erroneous standard applies to a magistrate judge’s findings of fact and the contrary to law standard to his conclusions of law. *See E.E.O.C. v. Burlington N. & Santa Fe. Ry. Co.*, 621 F. Supp. 2d 603, 605 (W.D. Tenn. 2009); *Gandee v. Glaser*, 785 F. Supp. 684, 686 (S.D. Ohio 1992) *aff’d* 29 F.3d 1432 (6th Cir. 1994). “A finding is clearly erroneous where it is against the clear weight of the evidence or where the court is of the definite and firm

conviction that a mistake has been made.” *Galbraith v. N. Telecom, Inc.*, 944 F.2d 275, 281 (6th Cir. 1991), *overruled on other grounds*, *Kline v. Tenn. Valley Auth.*, 128 F.3d 337 (6th Cir.1997); *see also Hood v. Midwest Savs. Bank*, No. C2-97-218, 2001 WL 327723, at *2 (S.D. Ohio Mar. 22, 2001). A decision is contrary to law “if the magistrate has misinterpreted or misapplied applicable law.” *Hood*, 2001 WL 327723, at *2 (internal quotation and citation omitted). “A district court’s review under the contrary to law standard is plenary and it may overturn any conclusions of law which contradict or ignore applicable precepts of law.” *Burlington N. & Santa Fe Ry. Co.*, 621 F. Supp. 2d at 605 (internal quotation and citation omitted).

This Court has carefully reviewed Magistrate Judge Merz’s Amended Order and Supplemental Opinion. His factual findings are not clearly erroneous and his legal conclusions are not contrary to law. Specifically, the Court agrees with Magistrate Judge Merz that discovery should be denied as to Petitioner’s claims for *Brady* violations, discriminatory charging and prosecutions, and unconstitutional proportionality review.

Accordingly, the Court **AFFIRMS** the Amended Order (doc. 25) and the Supplemental Opinion (doc. 29). The Court **OVERRULES** Petitioner’s Objections (docs. 27, 31).

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court