

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

MARK H. KAEDING,

Petitioner,

-vs-

WARDEN, Lebanon Correctional Institution,

Respondent.

:

Case No. 1:11-cv-121

:

District Judge Michael R. Barrett
Magistrate Judge Michael R. Merz

ORDER STRIKING “TRAVERSE”

This habeas corpus case is before the Court upon Petitioner’s filing, on September 18, 2012, of a “Traverse to Return of Writ” (Doc. No. 46). As noted in the Decision and Order/Report and Recommendations filed by this judge on September 11, 2012,

Despite Judge Litkovitz’s setting a date for a reply or traverse, Kaeding did not file one in response to the original Return of Writ. Instead, the case was stayed to permit Kaeding to exhaust state court remedies (Doc. Nos. 20, 21). After the stay was lifted and the case transferred to the undersigned (Doc. Nos. 24, 26), the Warden filed a Supplemental Return (Doc. No. 31) and Petitioner has filed his Traverse to the Supplemental Return (Doc. No. 43).

(Doc. No. 45, PageID 1810.) On August 1, 2012, Petitioner sought an extension of sixty days to file traverses to both the original Return and Supplemental Return (Doc. No. 37). In response, the Court granted an extension to file “a reply/traverse” (Order, Doc. No. 38, PageID 1776). Petitioner filed a Traverse on August 24, 2012 (Doc. No. 43). The Court did not grant leave to file two separate traverses. Considering the matter to be ripe in light of the Petitioner’s filing the

traverse he was permitted, the Magistrate Judge prepared and filed a forty-five page Report and Recommendations on the merits of the case.

Accordingly, the Traverse filed September 18, 2012, is STRICKEN. Petitioner may incorporate any arguments he believes have not been addressed in his objections to the Report and Recommendations, which must be filed by September 28, 2012.

September 19, 2012.

s/ *Michael R. Metz*
United States Magistrate Judge