

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

James Derrick O'Neal,

Petitioner,

v.

Case No. 1:12cv699

Warden, Chillicothe Correctional
Institution,

Judge Michael R. Barrett

Respondent.

ORDER

This matter is before the Court on the September 11, 2015 Report and Recommendation filed by the Magistrate Judge. (Doc. 15) The Magistrate Judge recommends that Petitioner's Numerically Second Petition be dismissed without prejudice for failure to plead a claim cognizable in habeas corpus with sufficient clarity to distinguish it from the claims Petitioner has made in *In re Ohio Lethal Injection Litigation*. The Magistrate Judge granted Petitioner leave to move to file an amended petition no later than September 30, 2015.

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Petitioner was granted an extension of time to file any objections and the date by which to file motion for leave to file an amended petition. The new deadline was October 30, 2015. Petitioner did not file objections by that date, nor did Petitioner file a motion for leave to file an amended petition.

On December 30, 2015, the Court noted that no objections or a motion for leave to file an amended petition were filed on October 30, 2015. This Court ordered Petitioner

to show cause as to why this matter should not be dismissed. (Doc. 17). Petitioner did not respond to the show cause order.

Accordingly, it is **ORDERED** that the Report and Recommendation (Doc. 15) of the Magistrate Judge is hereby **ADOPTED**. The Petition (Doc. 1) is dismissed without prejudice for failure to plead a claim cognizable in habeas corpus with sufficient clarity to distinguish it from the claims Petitioner has made in *In re Ohio Lethal Injection Litigation*. This matter shall be **CLOSED** and **TERMINATED** from the docket of this Court.

IT IS SO ORDERED.

/s/ Michael R. Barrett

Michael R. Barrett
United States District Judge