

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

DONALD WYATT,	:	Case No. 1:13-cv-28
	:	
Petitioner,	:	Judge Timothy S. Black
	:	Magistrate Judge Stephanie K. Bowman
vs.	:	
	:	
WARDEN, Warren Correctional Institution,	:	
	:	
Respondent.	:	

**DECISION AND ENTRY: (1) ADOPTING THE REPORT AND RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 11); (2) GRANTING RESPONDENT’S MOTION TO DISMISS (Doc. 9); (3) DISMISSING PETITIONER’S PETITION WITH PREJUDICE (Doc. 1); (4) DENYING ANY REQUESTED CERTIFICATE OF APPEALABILITY; (5) CERTIFYING THAT ANY APPEAL WOULD NOT BE TAKEN IN GOOD FAITH AND DENYING PETITIONER LEAVE TO APPEAL IN FORMA PAUPERIS; AND (6) TERMINATING THIS CASE**

This case is before the Court on the Report and Recommendations of United States Magistrate Judge Stephanie K. Bowman. (Doc. 11). The Magistrate Judge concludes that Respondent’s Motion to Dismiss (Doc. 9) should be granted, that Petitioner’s Petition for Writ of Habeas Corpus should be dismissed with prejudice, that Petitioner be denied a certificate of appealability and that the Court certify that any appeal would be objectively frivolous and deny Petitioner leave to appeal *in forma pauperis*. (Doc. 11). Petitioner filed no objections to the Report and Recommendations and the time for doing so has expired.

As required by 29 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* the substantive filings in this case. Based upon the reasoning and citations of authority set forth in the Magistrate Judge's Report and Recommendations (Doc. 11) and the Court's *de novo* review, the Court:

- (1) **ADOPTS** the Report and Recommendations of the United States Magistrate Judge (Doc. 11) in its entirety;
- (2) **GRANTS** Respondent's Motion to Dismiss (Doc. 9);
- (3) **DISMISSES** Petitioner's Petition for Writ of Habeas Corpus (Doc. 1) with prejudice;
- (4) **DENIES** any request for a certificate of appealability under 28 U.S.C. § 2253(c);
- (5) **CERTIFIES** that any appeal would not be taken in good faith and **DENIES** any request for leave to appeal *in forma pauperis*; and
- (6) **DIRECTS** the Clerk to enter judgment accordingly, whereupon this case **TERMINATES** on the Court's docket.

**IT IS SO ORDERED.**

Date: 12/6/13

/s/ Timothy S. Black  
Timothy S. Black  
United States District Judge