

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

Lial Rice,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:14cv732
vs.	:	
	:	Judge Susan J. Dlott
Warden, Pickaway Correctional Institution,	:	
	:	
Respondent(s).	:	

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Karen L. Litkovitz filed on September 9, 2015 (Doc. 35), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired September 28, 2015, hereby ADOPTS said Report and Recommendation.

Accordingly, the petitioner’s petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 (Doc. 15) is DISMISSED with prejudice.

A certificate of appealability will not issue in the absence of a substantial showing that petitioner has started a “viable claim of the denial of a constitutional right” or that the issues presented are “adequate to deserve encouragement to proceed further.” *See Slack v McDaniel*, 529 U.S. 473, 475 (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)); *see also* 28 U.S.C. §2253 ( c ); Fed. R. App. P. 22(b). *Cf Jackson v. Albany Appeal Bureau Unit*, 442 F.3d 51, 54 (2<sup>nd</sup> Cir. 2006) (declining to issue a certificate of appealability in an analogous case).

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. §1915(a)(3) that an appeal of any Order adopting the

Report and Recommendation will not be taken in “good faith,” therefore DENIES petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6<sup>th</sup> Cir. 1997).

IT IS SO ORDERED.

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