

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BRANDON TOLBERT,	:	Case No. 1:15-cv-293
	:	
Petitioner,	:	Judge Timothy S. Black
vs.	:	Magistrate Judge J. Gregory Wehrman
	:	
WARDEN, WARREN	:	
CORRECTIONAL INSTITUTION,	:	
	:	
Respondent.	:	

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATIONS
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 10)**

This case is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge J. Gregory Wehrman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on December 28, 2015, submitted a Report and Recommendations. (Doc. 10). No objections were filed.

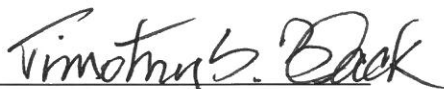
As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Report and Recommendations should be and is hereby adopted in its entirety. Accordingly:

1. Respondent's motion to dismiss (Doc. 9) is **GRANTED** and Petitioner's Petition for a writ of habeas corpus (Doc. 1) is **DISMISSED** with prejudice;

2. A certificate of appealability will not issue since “jurists of reason” would not find it debatable whether this Court is correct in its procedural ruling that Petitioner’s claims are time-barred;
3. The Court certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal of this Order would not be taken in good faith and therefore Petitioner is denied leave to appeal *in forma pauperis*; and
4. The Clerk shall enter judgment accordingly whereupon this case is **TERMINATED** in this Court.

IT IS SO ORDERED.

Date: 1/15/16


Timothy S. Black
United States District Judge