

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RAY SCOTT HEID,	:	Case No. 1:16-cv-234
	:	
Petitioner,	:	Judge Timothy S. Black
	:	Magistrate Judge Karen L. Litkovitz
vs.	:	
	:	
WARDEN, ROSS	:	
CORRECTIONAL INSTITUTION,	:	
	:	
Respondent.	:	

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 21)**

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 Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on November 21, 2016, submitted a Report and Recommendations. (Doc. 21). Petitioner filed objections on Jan. 10, 2017. (Doc. 25).¹

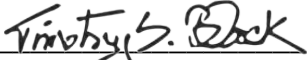
¹ After reviewing the Report and Recommendations, Petitioner’s objections, and the case record, the Court finds that Petitioner’s objections are not well taken. The Report and Recommendations recommended Petitioner’s petition for writ of habeas corpus be dismissed as time-barred under 28 U.S.C. § 2244(d)(1). Petitioner’s objections make two main arguments in response: 1) that a jurisdictional challenge can be raised at any time, including in a federal habeas action past the expiration of the statute of limitations, and 2) that he is entitled to equitable tolling. The Report and Recommendation adequately addressed and dismissed both arguments, and Petitioner’s objections add no new information to counter the Magistrate Judge’s analysis on the issue. Accordingly, the petition for writ of habeas corpus must be dismissed as time-barred.

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, **IT IS ORDERED** that:

- 1) Respondent's motion to dismiss (Doc. 11) is **GRANTED**;
- 2) Petitioner's petition for a writ of habeas corpus (Doc. 1) is **DISMISSED WITH PREJUDICE**;
- 3) A certificate of appealability shall not issue with respect to any of the grounds for relief alleged in the petition because petitioner has not stated a "viable claim of the denial of a constitutional right," nor are the issues presented "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);
- 4) 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.

IT IS SO ORDERED.

Date: 2/14/17



Timothy S. Black
United States District Judge