

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

TERRANCE MIDDLEBROOK,	:	Case No. 1:16-cv-694
	:	
Petitioner,	:	Judge Timothy S. Black
	:	Magistrate Judge Karen L. Litkovitz
vs.	:	
	:	
WARDEN, HOCKING	:	
CORRECTIONAL FACILITY	:	
	:	
Respondent.	:	

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 12)**

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 December 14, 2016, submitted a Report and Recommendation. (Doc. 12). 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, **IT IS ORDERED** that:

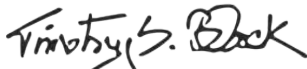
- 1) Respondent's motion to dismiss (Doc. 10) is **DENIED**;
- 2) Petitioner's petition for a writ of habeas corpus (Doc. 1) is **ADMINISTRATIVELY STAYED** and **TERMINATED** on the Court's

active docket pending Petitioner's exhaustion of his ineffective assistance of appellate counsel claim in state court. This stay is conditioned on (1) filing a delayed reopening application under Ohio R. App. P. 26(B) to the Ohio Court of Appeals, First Appellate District, within 30 days, and (2) filing a motion to reinstate the case on this Court's active docket within 30 days after fully exhausting the state-court remedy through the requisite levels of appellate review, which includes the Ohio Supreme Court.

Petitioner will be granted leave to reinstate this case on the Court's active docket when he has exhausted his ineffective-assistance-of-appellate-counsel claim in the state courts based on a showing that he has complied with the above conditions of the stay.

IT IS SO ORDERED.

Date: 1/11/2017


Timothy S. Black
United States District Judge