

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

SIR MICHAEL MILLER,	:	Case No. 1:16-cv-865
Petitioner,	:	
	:	Judge Timothy S. Black
vs.	:	
	:	Magistrate Judge J. Gregory
WARDEN, LEBANON	:	Wehrman
CORRECTIONAL INSTITUTION,	:	
Respondent.	:	

**DECISION AND ENTRY  
ADOPTING THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 9) and  
TERMINATING THIS CASE IN THIS COURT**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge J. Gregory Wehrman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and submitted a Report and Recommendation. (Doc. 9). Petitioner filed objections (“Objections”).<sup>1</sup>

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

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<sup>1</sup> The Objections are not well-taken. The Objections argue Petitioner’s claim is not procedurally defaulted because “Petitioner’s counsel raised the required constitutionality of his claim,” but the Objections do not cite any portion of the record in support of this argument. The Objections argue that Petitioner’s counsel was ineffective in failing to object to errors during trial, but the Magistrate Judge properly rejected that argument on the grounds that Petitioner did not raise the ineffective assistance claim in his brief in the Supreme Court of Ohio. The Objections argue that Petitioner’s claim succeeds on the merits, but the Magistrate Judge properly concluded that, in light of other evidence at trial of Petitioner’s involvement in the underlying crimes, Petitioner cannot show that any error resulting from the admission of statements at issue rendered his trial fundamentally unfair. The Objections are **OVERRULED**.

determine that the Report and Recommendation should be and is hereby adopted in its entirety. Accordingly:

1. The Report and Recommendation (Doc. 9) is **ADOPTED**;
2. The Objections (Doc. 12) are **OVERRULED**;
3. Petitioner's petition for a writ of habeas corpus (Doc. 3) is **DENIED** with prejudice;
4. No certificate of appealability shall issue;
5. Pursuant to 28 U.S.C. § 1915(a)(3), any appeal of this Order would not be taken in "good faith" and Petitioner is denied leave to appeal *in forma pauperis*; and
6. The Clerk shall enter judgment accordingly, whereupon this case is **TERMINATED** on the docket of this Court.

**IT IS SO ORDERED.**

Date: 2/19/19

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