

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

Douglas A. Cope,	:	
	:	
Petitioner(s),	:	Case Number: 1:16cv868
	:	
vs.	:	Judge Susan J. Dlott
	:	
Warden, Ross Correctional Institution,	:	
	:	
Respondent(s).	:	

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Karen L. Litkovitz filed on October 2, 2017 (Doc. 18), 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 October 16, 2017, hereby ADOPTS said Report and Recommendation.

Mail returned as Undeliverable on October 31, 2017. The mail was marked paroled on September 24, 2017.

Accordingly, respondent’s motion to dismiss (Doc. 13) is GRANTED. Petitioner’s petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 (Doc. 4) is DISMISSED with prejudice.

Petitioner’s request for an evidentiary hearing (Doc. 14) is DENIED.

A certificate of appealability will not issue with respect to any of the petitioner’s time-barred claims because under the first prong of the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), “jurists of reason” will not find it debatable

whether the Court is correct in its procedural ruling that such claims are subject to dismissal on statute of limitations grounds. Moreover, a certificate of appealability will not issue with respect to Grounds One and Two of the petition because petitioner has not started a “viable claim of the denial of a constitutional right” or presented issues that are “adequate to deserve encouragement to proceed further.” *See Slack*, 529 U.S. at 475 (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).

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, petitioner is DENIED 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 (6th Cir. 1997).

IT IS SO ORDERED.



Judge Susan J. Dlett
United States District Court