

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

Clayton M. Bates, et al.,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:16cv975
vs.	:	
	:	Judge Susan J. Dlott
Richard M. DeWine, et al.,	:	
	:	
Respondent(s).	:	

ORDER

This matter 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 Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on October 31, 2016 a Report and Recommendation (Doc. 9). Subsequently, the petitioner filed objections to such Report and Recommendation (Doc. 12).

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 Recommendation should be adopted.

Accordingly, the petitioners' petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 (Doc. 1) is DISMISSED with prejudice on the ground that the Court lacks jurisdiction to consider it and petitioners' related motions (Docs. 2 and 3) are DENIED.

A certificate of appealability will not issue because petitioners have 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 © ); Fed. R. App. P. 22(b).

The Court certifies 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,” and, therefore, petitioners are 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 (6<sup>th</sup> Cir. 1997).

IT IS SO ORDERED.

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s/Susan J. Dlott  
Judge Susan J. Dlott  
United States District Court