

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RICHARD A. CHATMAN,

Petitioner,

Case No. 2:10-cv-1091

**District Judge George C. Smith
Magistrate Judge Michael R. Merz**

-vs-

**WARDEN, ROSS CORRECTIONAL
INSTITUTION,**

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATIONS ON MOTION FOR NEW
TRIAL**

This habeas corpus case is before the Court on Petitioner's Motion to Amend the Judgment (Doc. No. 14). Essentially Petitioner wants the Court to vacate its Judgment of April 17, 2013, which adopted the Magistrate Judge's Report and Recommendations recommending that the Petition be dismissed with prejudice (Doc. Nos. 11, 12).

Because the Motion was filed post-judgment, it was deemed referred to Magistrate Judge Merz for report and recommendations under 28 U.S.C. § 646(b)(3). The Magistrate Judge filed a Report and Recommendations recommending the Motion for New Trial be denied (Doc. No. 15) and Petitioner has filed Objections to that Report (Doc. No. 16).

Review of a Magistrate Judge's Report and Recommendations on a post-judgment motion is *de novo*.

The Report recommends not reopening the judgment because Petitioner did not file any

objections to Magistrate Judge Merz's Report on the merits within the time allowed by law.¹ The Report also noted, importantly, that the case had been pending for two years without Petitioner's filing anything of substance on the merits.

In his instant Objections, Petitioner again recites the lack of law library resources at his institution of confinement (Objections, Doc. No. 16, PageID 701-02). Even accepting those limitations, Petitioner has not explained why it would take him the full seventeen-day objection period to draft a two-sentence request for extension of time. Responding to Magistrate Judge Merz's point that he had filed nothing of substance in response to the Return of Writ, he notes that the Rules Governing § 2254 Cases do not require him to do so and none of the legal resources give a form for such a reply. Even now he does not tender any substantive argument, but asks that the judgment be reopened so that he can do so at some unspecified future time. (*Id.* at PageID 703).

Having reviewed again the substance of Magistrate Judge Merz's Report and Recommendations on the merits (Doc. No. 9), the Court concludes that they are a correct analysis of the law. Petitioner has not shown that the decisions on any of these points by the Ohio courts was contrary to or an objectively unreasonable application of clearly established United States Supreme Court precedent.

Accordingly, upon *de novo* review, the Court **ADOPTS** Magistrate Judge Merz's Report and Recommendations on the Petitioner's Motion for New Trial and that Motion is **DENIED**.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT

¹ Although Petitioner sought and Magistrate Judge Merz granted an extension of time to file objections, that extension was effectively negated by the Court's entry of judgment. In light that the entry of judgment, Magistrate Judge Merz vacated the extension of time.