UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

DAVID G. FOX,

Petitioner,

v.

Civil Action 2:12-cv-476
Judge Edmund A. Sargus, Jr.
Magistrate Judge Elizabeth P. Deavers

WARDEN ROSS
CORRECTIONAL INSTITUTION, et al.,

Respondent.

ORDER

This matter is before the Court for consideration of the September 6, 2012 Report and Recommendation of the United States Magistrate Judge, to whom this case was referred pursuant to 28 U.S.C. § 636(b). (ECF No. 7.) The Magistrate Judge construed this action as arising under 28 U.S.C. § 2254 as well as § 2241, and concluded that neither section vests this Court with habeas corpus jurisdiction to order a compassionate release or to review any denial of a compassionate release request. She further advised Mr. Fox that to the extent he seeks to challenge the conditions of his confinement rather than the legal basis of his confinement, he must file a civil rights complaint under 42 U.S.C. § 1983 as he did in this Court in Civil Action Number 2:12-CV-324. Based upon the foregoing, the Magistrate Judge recommended that the Court dismiss David G. Fox's Petition under Rule Four of the Rules Governing Section 2254 Cases because it appears that he is not entitled to relief in this Court.

The Report and Recommendation specifically advises Petitioner Fox that the failure to object to the Report and Recommendation within fourteen days of the Report results in a "waiver

of the right to *de novo* review . . . by the District Judge and waiver of the right to appeal the judgment of the District Court." (Report and Recommendation 6, ECF No. 7.) Upon Petitioner's Motion, the Court extended the deadline for filing objections until October 10, 2012. The time period for filing objections to the Report and Recommendation has expired. Petitioner has not objected to the Report and Recommendation.

The Court has reviewed the Magistrate Judge's Report and Recommendation. Noting that no objections have been filed and that the time for filing such objections has expired, the Court **ADOPTS** the Report and Recommendation. Accordingly, the Court **DISMISSES** Mr. Fox's Petition under Rule Four of the Rules Governing Section 2254 Cases because it appears that he is not entitled to relief in this Court. The Clerk is **DIRECTED** to enter judgment and terminate this case. The Clerk is further **DIRECTED** to send a copy of this order to the Ohio Attorney General's Office, 150 E. Gay St., 16th Floor, Columbus, Ohio 43215.

IT IS SO ORDERED.

10-18-2012
DATE

EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE