

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

SAMUEL BUOSCIO,

Petitioner,

vs.

Civil Action 2:12-cv-915
Judge Sargus
Magistrate Judge King

WARDEN, NORTH CENTRAL
CORRECTIONAL COMPLEX,

Respondent.

REPORT AND RECOMMENDATION

Petitioner is an inmate in an Ohio prison. He has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging - not his state court criminal conviction - but a November 2000 order of the Franklin County Court of Common Pleas declaring him a vexatious litigator under Ohio law. This matter is now before the Court pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, which requires a preliminary review of the petition. Because the Court concludes that petitioner is not entitled to habeas corpus relief, it is recommended that the petition be dismissed.

Section 2254 authorizes a federal court to entertain an application for a writ of habeas corpus on behalf of a person in state custody "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). The petition does not challenge the constitutionality of petitioner's custody; it seeks to challenge the imposition of "vexatious litigator sanctions" which, petitioner alleges, deprive him of his constitutional right of access to the courts.

Because petitioner does not challenge the basis of his custody, Section 2254 does not provide habeas corpus relief to him.

It is therefore **RECOMMENDED** that the petition be dismissed.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

October 11, 2012
(Date)

s/ *Norah McCann King*
Norah M^cCann King
United States Magistrate Judge