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

ANTHONY McKINNEY,

Petitioner,

v.

Civ. No. 2:14-cv-1992
CHIEF JUDGE SARGUS
Magistrate Judge King

WARDEN, WARREN CORRECTIONAL INSTITUTION,

Respondent.

ORDER

On May 30, 2017, the Magistrate Judge denied Petitioner's requests for discovery and for an evidentiary hearing, *Motion Requesting the District Court to Order Respondent to Provide the Court and Petitioner with Relevant Portions of the Transcripts and Other Parts of the Record* (ECF No. 68), *Motion to Defer Ruling Pending Receipt from Petitioner of a Traverse* (ECF No. 67), and recommended that habeas corpus claims one, three and four be denied and that the petition for a writ of habeas corpus be dismissed. *Order and Report and Recommendation* (ECF No. 81). Petitioner has filed objections to the *Order and Report and Recommendation. Objection* (ECF No. 84).

Only three (3) claims remain pending in this action, the Court having previously dismissed claims two, five, and six. *Order* (ECF No. 41); *Judgment* (ECF No. 42). The Magistrate Judge recommended that claim four, in which Petitioner alleges that his convictions are against the manifest weight of the evidence, be dismissed as failing to present an issue appropriate for federal habeas corpus relief, and that claims one and three be dismissed as procedurally defaulted. *Order and Report and Recommendation.* Objecting to the recommendation that claim four be dismissed, Petitioner raises the same arguments regarding the

merits of this claim that he previously presented. He objects to the recommendation of dismissal of his claims as procedurally defaulted, and argues that he should not be required to establish cause and prejudice for any procedural default because he insists that he did not commit a procedural default. He also complains that the Magistrate Judge failed to address the merits of his claims. Petitioner disputes the factual findings of the state appellate court and claims that an evidentiary hearing is mandatory in this Court because the state courts failed to hold a hearing on his claims. Petitioner also objects to the denial of his request for discovery and expansion of the record.

For the reasons already well detailed in the Magistrate Judge's *Order and Report and Recommendation*, Petitioner's objections are not well-taken. Petitioner's *Objection* (ECF No. 84) is therefore **OVERRULED**. The *Order and Report and Recommendation* (ECF No. 81) is **ADOPTED** and **AFFIRMED.**

Petitioner's requests for discovery and an evidentiary hearing, *Motion Requesting the District Court to Order Respondent to Provide the Court and Petitioner with Relevant Portions of the Transcripts and Other Parts of the Record* (ECF No. 68), and *Motion to Defer Ruling Pending Receipt from Petitioner of a Traverse* (ECF No. 67), are **DENIED.** This action is hereby **DISMISSED.**

The Clerk is **DIRECTED** to enter **FINAL JUDGMENT**.

6-14-2017

EDMUND A. SARGUS, JR.
Chief United States District Judge