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

VINCENT JOHNSON,

Petitioner,

v.

WARDEN, CHILLICOTHE CORRECTIONAL INSTITUTION,

Respondent.

CASE NO. 2:15-CV-00971
JUDGE JAMES L. GRAHAM
Magistrate Judge Elizabeth A. Preston Deavers

OPINION AND ORDER

On September 6, 2016, the Magistrate Judge issued a *Report and Recommendation* recommending that this action be dismissed. (ECF No. 15.) Petitioner has filed an *Objection* to the Magistrate Judge's *Report and Recommendation*. (ECF No. 16.) Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review. For the reasons that follow, Petitioner's *Objection* (ECF No. 16) is **OVERRULED**. The *Report and Recommendation* (ECF No. 15) is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

This action involves Petitioner's convictions after a jury trial in the Franklin County Court of Common Pleas on two counts of rape, one count of attempted rape, one count of kidnapping, one count of abduction, and one count of domestic violence, with specifications. Petitioner asserts in these federal habeas corpus proceedings that the trial court abused its discretion by permitting admission of DNA evidence in violation of Ohio evidentiary rules, his right to due process, and equal protection (claim one); and that he was denied his right to grand jury findings because the trial court improperly amended the indictment under Ohio Criminal Rule 7(D) (claim two). The Magistrate Judge recommended dismissal of these claims on the merits.

Petitioner objects to the Magistrate Judge's recommendation of dismissal of his claims on the merits. Petitioner maintains that he fairly presented claim one as a federal constitutional issue to the Ohio courts and that the state appellate court unreasonably denied him relief. Petitioner also argues that amendment of the indictment to delete repeat violent offender specifications from Counts 7 and 8, which charged him with abduction and domestic violence, based on an apparent typographical error "negated the validity of the offenses" thereby denying him the right to a fair trial. *Objection* (ECF No. 16, PageID# 928.)

Petitioner's arguments are not well taken. As discussed by the Magistrate Judge, to the extent that Petitioner's claims implicate the alleged violation of state evidentiary rules or state law, they fail to present an issue warranting federal habeas corpus relief. 28 U.S.C. § 2254(a). Further, and contrary to Petitioner's allegation here, he failed to fairly present claim one to the state courts as a federal constitutional issue. Moreover, the record fails to reflect that the amendment of the indictment to correct a typographical error violated the Constitution.

For the foregoing reasons and for the reasons detailed in the Magistrate Judge's *Report and Recommendation*, Petitioner's *Objection* (ECF No. 16) is **OVERRULED**. The *Report and Recommendation* (ECF No. 15) is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED.**

IT IS SO ORDERED.

Date: September 15, 2016

s/James L. Graham
JAMES L. GRAHAM
United States District Judge