

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

STEPHEN H. WHITT,

Petitioner,

v.

**WARDEN, LEBANON
CORRECTIONAL INSTITUTION,**

Respondent.

**CASE NO. 2:17-CV-110
JUDGE GEORGE C. SMITH
Magistrate Judge Deavers**

OPINION AND ORDER

On February 7, 2017, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be transferred to the United States Court of Appeals for the Sixth Circuit for authorization for filing as successive. (ECF No. 3). Petitioner has filed an *Objection* to the Magistrate Judge's *Report and Recommendation*. (ECF No. 5). Petitioner again argues that the trial court lacked jurisdiction and that he is being unconstitutionally imprisoned.

Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review. As discussed in the Magistrate Judge's *Report and Recommendation*, this action plainly constitutes a successive petition. Therefore, Petitioner's *Objection* (ECF No. 5) is **OVERRULED**. The *Report and Recommendation* (ECF No. 3) is **ADOPTED** and **AFFIRMED**. This action is **TRANSFERRED** to the United States Court of Appeals for the Sixth Circuit for authorization for filing as successive.

IT IS SO ORDERED.

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