

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

ERIC L. POWELL

Petitioner,

v.

**WARDEN, FRANKLIN COUNTY
CORRECTION CENTER,**

**Case No. 2:17-CV-00276-ALM
JUDGE ALGENON L. MARBLEY
Magistrate Judge Jolson**

Respondent.

REPORT AND RECOMMENDATION

On April 6, 2017, Eric L. Powell, a prisoner at the Franklin County Correctional Center, submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Doc. 1). However, on April 12, 2017, this Court issued an Order noting that Petitioner had submitted neither the full filing fee nor a request for leave to proceed *in forma pauperis* under 28 U.S.C. § 1915(a). Consequently, the Court ordered Petitioner either to pay the \$5.00 filing fee or to file a proper motion for leave to proceed *in forma pauperis* under 28 U.S.C. § 1915(a) within thirty (30) days of that Order. (Doc. 2). The Court additionally made clear that “[f]ailure to do so [would] result in dismissal of this action for want of prosecution.” (*Id.*).

More than 30 days have passed, and Petitioner has not paid the filing fee or moved to proceed *in forma pauperis*. Accordingly, it is **RECOMMENDED** that this case be **DISMISSED without prejudice** for want of prosecution. *See Gravitt v. Tyszkiewicz*, 14 F. App’x 348, 348 (6th Cir. 2001).

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those

specific proposed finding or recommendations to which objection is made, together with supporting authority for the objection(s). A District Judge of this Court shall make a *de novo* determination of those portions of the Report or specific proposed findings or recommendations to which objection is made. Upon proper objection, a District Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver 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); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: May 19, 2017

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE