

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**FILED  
RICHARD W. NAGEL  
CLERK OF COURT**

**2017 AUG 21 PM 3:21**

**TOBY D. WILCOX,**

**Petitioner,**

**v.**

**CASE NO. 2:17-cv-604  
JUDGE MICHAEL H. WATSON  
Magistrate Judge Kimberly A. Jolson**

**U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
DIV. COLUMBUS**

**TOLEDO CORRECTIONAL  
INSTITUTION,**

**Respondent.**

**OPINION AND ORDER**


On August 1, 2017, the Magistrate Judge issued a Report and Recommendation ("R&R") pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts recommending that the 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 as successive. ECF No. 4. Although the parties were advised of the right to file objections to the Magistrate Judge's R&R, and of the consequences of failing to do so, no objections have been filed.

The R&R, ECF No. 4, is **ADOPTED** and **AFFIRMED**. The Petition is **TRANSFERRED** to the United States Court of Appeals for the Sixth Circuit as successive.

Pursuant to Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts, the Court now considers whether to issue a

certificate of appealability. However, Petitioner has waived the right to appeal by failing to file objections to the Magistrate Judge's R&R. See *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). The Court therefore **DECLINES** to issue a certificate of appealability.

**IT IS SO ORDERED.**

  
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**MICHAEL H. WATSON, JUDGE**  
**UNITED STATES DISTRICT COURT**