

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

TIMOTHY WOGERD,

Petitioner,

: Case No. 2:18-cv-104

- vs -

District Judge Michael H. Watson
Magistrate Judge Michael R. Merz

LYNEAL WAINRIGHT, Warden,
Marion Correctional Institution

:

Respondent.

DECISION AND ORDER

This habeas corpus case is before the Court on Petitioner's combined Motion to Amend/Expand his Objections to the Supplemental Report and Recommendations, to Strike the Return of Writ, to Vacate the two Reports and Recommendations filed by the Magistrate Judge, and to Disqualify the Magistrate Judge from continuing to adjudicate matters in this case (ECF No. 31).

The content of this Motion appears to be an appeal to the District Judge from the Magistrate Judge's Decision and Order of December 18, 2018 (ECF No. 30), denying Petitioner's Motion to Expand the Record (ECF No. 29) which included requests to strike the Answer and disqualify the Magistrate Judge.

Although the filing is timely, it contains no new information which is persuasive on the subject of expanding the record or striking the Answer. In particular, Woogerd has not argued why the document he claims is missing from the state court record as filed here and which the Magistrate Judge found was also missing from the docket of Woogerd's case in the Franklin

County Common Pleas Court is somehow material to the determination that the Petition is untimely by more than nine years, that Woogerd procedurally defaulted his claims by not timely appealing to the Supreme Court of Ohio from the Tenth District Court of Appeals, and that, in any event, Petitioner is not entitled to relief on the merits.

Petitioner's request to disqualify the Magistrate Judge was also thoroughly vetted in the Decision and Order (ECF No. 30) and he makes no additional argument on that issue. Neither does he respond to the authority on that issued cited in the Decision and Order.

Accordingly, the instant Motion is DENIED.

January 8, 2019.

s/ *Michael R. Merz*
United States Magistrate Judge