

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

Julio Rodriguez,

Petitioner,

v.

Case No. 2:18-CV-114

Judge Michael H. Watson

Magistrate Judge Chelsey M. Vascura

**David Gray, Warden,
Belmont Correctional Institution,**


Respondent.

OPINION AND ORDER

On February 12, 2018, Petitioner, a state prisoner, sought a petition for a writ of habeas corpus under 28 U.S.C. § 2254. ECF No. 1. On March 19, 2018, the Magistrate Judge issued a Report and Recommendation (“R&R”) recommending that the petition be transferred to the Sixth Circuit as successive because it constitutes Petitioner’s second attempt to challenge the same 1995 state court conviction under § 2254. ECF No. 4. A review of this Court’s docket in *Rodriguez v. DeWitt*, Case No. 2:99-cv-879 (S.D. Ohio, Sept. 10, 1999) also reveals that Petitioner could have brought the claims that he currently asserts— involving allegations about the state court judge’s actions in 1995—in his previous § 2254 action. *In re Bowen*, 436 F.3d 699, 704 (6th Cir. 2006) (citing *McClesky v. Zant*, 499 U.S. 467, 489 (1991)). Moreover, although Petitioner was advised of the right to object 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 therefore, **ADOPTED** and **AFFIRMED**. Petitioner's motion to amend is **DENIED**.

IT IS SO ORDERED.


MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT