

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

WARREN WADDY,	:	Case No. 3:98-cv-84
	:	
Petitioner,	:	Judge Timothy S. Black
	:	Magistrate Judge Michael R. Merz
vs.	:	
	:	
NORMAN ROBINSON, Warden,	:	
	:	
Respondent.	:	

**DECISION AND ENTRY OVERRULING
PETITIONER'S OBJECTIONS (Docs. 224, 236)**

This capital habeas corpus case is before the Court on Petitioner's Objections (Docs. 224, 236) to the Orders of Magistrate Judge (Docs. 222, 234) denying Petitioner's requested stay of this habeas proceeding pending the outcome of a motion for new trial in state court. Petitioner initially objected to the Magistrate Judge's denial of Petitioner's motion to permit habeas counsel to conduct state litigation on his behalf (Doc. 222); however, the Magistrate Judge subsequently, in a supplemental order (Doc. 234), authorized Petitioner's request for his present counsel to litigate the motion for new trial in state court. (*Id.*)¹ Accordingly, Petitioner's Objections to the Magistrate Judge's initial denial of Petitioner's request for counsel to conduct state court litigation is moot and therefore denied. Nevertheless, Petitioner's Objections challenging the Magistrate Judge's Orders denying the requested stay of this proceeding are ripe for decision by the Court.

¹ On August 7, 2013, Petitioner's Counsel submitted a Notice informing the Court and Respondent that Petitioner's Motion for Leave to File the Motion for New Trial was filed in the Franklin County, Ohio Court of Common Pleas on July 18, 2013.

The Court's review of the Magistrate Judge's denial of Petitioner's requested stay is governed by Fed. R. Civ. P. 72(a). Rule 72(a) provides that, following the issuance of an order by a Magistrate Judge on a nondispositive issue, "[a] party may serve and file objections to the order within 14 days[,]" and thereafter, "[t]he district judge . . . must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law."

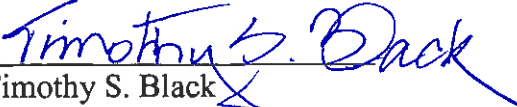
In considering objections to nondispositive orders, the Court reviews the Magistrate Judge's factual findings under a "clearly erroneous" standard and legal conclusions "under the more lenient 'contrary to law' standard." *Itskin v. Gibson*, No. 2:10-cv-689, 2012 WL 787400, at *1 (S.D. Ohio Mar. 9, 2012) (citing *Gandee v. Glaser*, 785 F.Supp. 684 (S.D. Ohio 1992), *aff'd* 19 F.3d 1432 (6th Cir.1994) (table)). Under both standards, the Court must "provide considerable deference to the determinations made by the magistrate judge." *Moran v. Svete*, C-3-05-072, 2012 WL 1142929, at *1 (S.D. Ohio Apr. 4, 2012) (citations omitted).

Here, upon reviewing the reasoning of the Magistrate Judge, and the citations of authority set forth by the Magistrate Judge and those set forth by Petitioner, the Court, upon giving considerable deference to the determinations of the Magistrate Judge as required by law, concludes that the conclusions of the Magistrate Judge are neither contrary to law nor clearly erroneous. Accordingly, Petitioner's Objections (Docs. 224, 236) are

OVERRULED.

IT IS SO ORDERED.

Date: _____


Timothy S. Black
United States District Judge