

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

DAVEL CHINN,

Petitioner,

-vs-

WARDEN, Mansfield Correctional
Institution,

Respondent.

:

Case No. 3:02-cv-512

:

District Judge Edmund A. Sargus, Jr.
Magistrate Judge Michael R. Merz

DECISION AND ORDER

This capital habeas corpus case is before the Court on for reconsideration of the Magistrate Judge’s Decision and Order [and] Report and Recommendations of November 5, 2014 (the “Decision,” Doc. No. 103). In the Decision, the Magistrate Judge (1) granted Petitioner’s request to extend his time to amend his Petition to add lethal injection claims to April 13, 2015; (2) denied a stay of consideration of presently-pled lethal injection claims until that date; and (3) recommended that the presently-pled lethal injection claims be dismissed without prejudice as moot. Both parties have objected (Doc. Nos.104, 106) and Judge Sargus has recommitted the matter for reconsideration in light of the Objections (Doc. No. 107).

The Warden objects to any further extension of time to plead and requests finality, noting the State’s interest in finality and prejudice to the State’s case from further delay (Objections, Doc. No. 104, PageID 1562-63). Chinn objects that his currently-pled lethal injection claims are not moot and the related denial of a stay of consideration of those claims pending amendment

(Objections, Doc. No. 106, PageID 1574-78).

Having reconsidered the matter in light of the Objections, it is hereby ORDERED:

1. The Report and Recommendations portion of the Decision is WITHDRAWN;
2. The denial of stay of consideration of the lethal injection claims is VACATED and the stay as requested is GRANTED;
3. The extension of Petitioner's time to amend to April 13, 2015, is CONFIRMED. The Warden has shown no error of law and no abuse of discretion in granting that extension.

December 22, 2104.

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