

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

WILLIAM C. BREWER,	:	Case No. 3:09-cv-462
	:	
Petitioner,	:	Judge Timothy S. Black
	:	Magistrate Judge Michael R. Merz
vs.	:	
	:	
STATE OF OHIO,	:	
	:	
Respondent.	:	

DECISION AND ENTRY: (1) ADOPTING THE REPORT AND RECOMMENDATIONS (Doc. 28) AND THE SUPPLEMENTAL REPORT AND RECOMMENDATIONS (Doc. 31) OF THE UNITED STATES MAGISTRATE JUDGE; (2) OVERRULING PETITIONER’S OBJECTIONS (Docs. 29-30, 32-33); (3) DISMISSING PETITIONER’S PETITION FOR WRIT OF HABEAS CORPUS (Doc. 1); (4) DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS* ANY REQUESTED CERTIFICATE OF APPEALABILITY; AND (5) TERMINATING THIS CASE

This case is before the Court on the Report and Recommendations (Doc. 28) and the Supplemental Report and Recommendations (Doc. 31) of United States Magistrate Judge Michael R. Merz, submitted May 28, 2010, and June 3, 2010, respectively. The Magistrate Judge, after reviewing the pleadings filed with this Court, recommends that the Petition for Writ of Habeas Corpus (Doc. 1) be dismissed with prejudice. Petitioner filed Objections to the Reports and Recommendations (Docs. 29, 30, 32, 33). Petitioner also filed a Brief (Doc. 34), which this Court will consider as an Objection to the Supplemental Report and Recommendations of the Magistrate Judge. Respondent submitted no response to Petitioner’s Objections.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that the Report and Recommendations (Doc. 28) and the Supplemental Report and Recommendations (Doc. 31) should be and are hereby adopted.

Petitioner's Objections allege no specific error. Instead, Petitioner continues to restate the same arguments regarding his conviction in the Common Pleas Court of Montgomery County, Ohio, No. 2003-cr-1750 ("2003 conviction"). These purported Objections are insufficient to allege error pursuant to 28 U.S.C. § 636 and Fed.R.Civ.P. 72. *See VanDiver v. Martin*, 304 F.Supp.2d 934, 937 (E.D. Mich. 2004) (stating that "[a] general objection, or one that merely restates the arguments previously presented, is not sufficient").

Even construing Petitioner's general restatements of argument as proper objections, nowhere within the numerous handwritten pages of general argument does Petitioner object to, or even discuss, the Magistrate Judge's dispositive finding that Petitioner's "claims about the 2003 conviction are waived by his failure ever to appeal from the judgment in that case." (Doc. 31). The Court finds no error in this dispositive conclusion. *See O'Sullivan v. Boerckel*, 526 U.S. 838 (1999) (stating that "state prisoners must give the state courts one full opportunity to resolve any constitutional issues by invoking one complete round of the State's established appellate review process").

Accordingly, the Court finds that:

- (1) The Report and Recommendations of the Magistrate Judge (Doc. 28) and the Supplemental Report and Recommendations of the Magistrate Judge (Doc. 31) are hereby **ADOPTED**;
- (2) Petitioner's Objections (Docs. 29, 30, 32, 33, 34) are hereby **OVERRULED**;
- (3) Petitioner's Petition for Writ of Habeas Corpus (Doc. 1) is **DISMISSED** with prejudice;
- (4) Petitioner be **DENIED** leave to appeal *in forma pauperis* and that a certificate of appealability under 28 U.S.C. § 2253(c) shall not issue; and
- (5) The case is **TERMINATED** on the docket.

IT IS SO ORDERED.

Date: 7/27/10

Timothy S. Black
Timothy S. Black
United States District Judge