

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

WILLIAM C. BREWER

Petitioner,

-v-

STATE OF OHIO

Respondent.

Case No. C-3:09-cv-462

**Judge Thomas M. Rose
Magistrate Michael R. Merz**

ENTRY AND ORDER OVERRULING BREWER'S OBJECTIONS (Doc. #4) TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #3) IN ITS ENTIRETY; DISMISSING BREWER'S PETITION FOR A WRIT OF HABEAS CORPUS WITH PREJUDICE; DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS*; DENYING ANY REQUESTED CERTIFICATE OF APPEALABILITY; AND TERMINATING THIS CASE

This case was created based upon a number of papers sent by William C. Brewer ("Brewer") to District Judge Walter Rice and ordered by Judge Rice to be filed as a Petition for a Writ of Habeas Corpus. This case now comes before the Court pursuant to Petitioner Brewer's Objections to Magistrate Judge Michael R. Merz's Report and Recommendations regarding Brewer's Petition for a Writ of Habeas Corpus. The Report and Recommendations was entered on December 11, 2009. (Doc. #3.) On December 16, 2009, Brewer's objections (doc. 4) were filed. On December 30, 2009, additional correspondence (doc. #5) from Brewer was filed.¹ The time has run and the State of Ohio has not filed a response. Brewer's Objections are, therefore, ripe for decision.

¹The additional correspondence appears to be a discussion of cases that Brewer thinks are relevant to the issue at hand.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Brewer's Objections to the Magistrate Judge's Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations is adopted in its entirety.

Brewer's Petition for a Writ of Habeas Corpus was filed long after the statute of limitations expired. It is, therefore, dismissed with prejudice. Further, because reasonable jurists would not disagree with this conclusion and appeal would be objectively frivolous, Brewer is denied leave to appeal *in forma pauperis* and any requested certificate of appealability.

DONE and ORDERED in Dayton, Ohio, this Sixth day of January, 2010.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
William C. Brewer at his last known address