

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

EFREN GUTIERREZ,	:	
	:	
Petitioner,	:	Case No. 3:11cv00268
	:	
vs.	:	District Judge Walter Herbert Rice
	:	Magistrate Judge Sharon L. Ovington
STATE OF OHIO,	:	
	:	
Respondent.	:	

DECISION AND ENTRY

The Court has conducted a de novo review of the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington (Doc. #3), to whom this case was originally referred pursuant to 28 U.S.C. §636(b), and noting that Plaintiff has filed a Notice (Doc. #24) informing the Court that she does not object to the Report and Recommendations, and further noting that the time for any party to file objections under Fed. R. Civ. P. 72(b) has expired, hereby **ADOPTS** said Report and Recommendations.

Accordingly, it is hereby **ORDERED** that:

1. The Report and Recommendations filed on August 10, 2011 (Doc. #3) is **ADOPTED** in full;
2. Efren Gutierrez's Petition for Writ of Habeas Corpus is **DENIED** and **DISMISSED** without prejudice, and Gutierrez's next federal habeas petition, if any, shall not be deemed successive under 28 U.S.C. §2244(b);

3. Gutierrez's request for a hearing is DENIED as moot;
4. A certificate of appealability not issue under 28 U.S.C. §2253; and
5. The case is terminated on the docket of the Court.

Walter Herbert Rice

Walter Herbert Rice
United States District Judge