

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

TODD C. MORGAN

Petitioner,

-v-

NORM ROBINSON, Warden,
Chillicothe Correctional Institution

Respondent.

Case No. C-3:12-cv-254

Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

ENTRY AND ORDER OVERRULING MORGAN'S OBJECTIONS (Doc. #3) TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #2) IN ITS ENTIRETY; DISMISSING MORGAN'S PETITION FOR A WRIT OF HABEAS CORPUS WITHOUT PREJUDICE; DENYING ANY REQUESTED CERTIFICATE OF APPEALABILITY BECAUSE ANY APPEAL WOULD BE OBJECTIVELY FRIVOLOUS; AND TERMINATING THIS CASE

This matter comes before the Court pursuant to pro se Petitioner Todd C. Morgan's ("Morgan's") Objections (doc. #3) to Magistrate Judge Michael R. Merz's Report and Recommendations (doc. #2). Upon review, as required by Rule 4 of the Rules Governing § 2254 cases, the Magistrate Judge recommends that Morgan's Petition for a Writ of Habeas Corpus be dismissed without prejudice because this Court does not have subject matter jurisdiction.

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 Morgan'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.

Morgan's Petition for a Writ of Habeas Corpus is given preliminary consideration as required by Rule 4 of the Rules Governing § 2254 Cases. Pursuant to this consideration, Morgan's Petition must be dismissed without prejudice because this Court lacks subject matter jurisdiction. This Court lacks subject matter jurisdiction because Morgan's current Petition is a "second or successive" Petition which cannot be filed without permission of the United States Court of Appeals for the Sixth Circuit.

Further, because reasonable jurists would not disagree with this conclusion, Morgan is denied any requested certificate of appealability and any appeal would be objectively frivolous. Finally, the captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and **ORDERED** in Dayton, Ohio, this Tenth Day of September, 2012.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Todd C. Morgan at his last address of record