

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

STEVEN M. ULRICH,	:	Case No. 3:13-cv-274
	:	
Petitioner,	:	Judge Timothy S. Black
	:	Magistrate Judge Michael R. Merz
vs.	:	
	:	
TIMOTHY BUCHANON,	:	
	:	
Respondent.	:	

DECISION AND ENTRY: (1) ADOPTING THE REPORTS AND RECOMMENDATIONS OF THE MAGISTRATE JUDGE (Docs. 2, 5); (2) OVERRULING PETITIONER’S OBJECTIONS (Doc. 3); (3) DISMISSING PETITIONER’S PETITION WITH PREJUDICE (Doc. 1); (4) DENYING ANY REQUESTED CERTIFICATE OF APPEALABILITY; AND (5) CERTIFYING THAT ANY APPEAL WOULD NOT BE TAKEN IN GOOD FAITH

This case is before the Court on the Reports and Recommendations of the United States Magistrate Judge Michael R. Merz (Doc. 2, 5) following the Magistrate Judge’s initial review required by Rule 4 of the Rules Governing § 2254 Cases, 28 U.S.C.A. foll. § 2254.¹ The Magistrate Judge concludes that Petitioner’s Petition for Writ of Habeas Corpus should be dismissed and that the Court should certify to the Sixth Circuit that any appeal would not be taken in good faith. Petitioner filed Objections to the Report and Recommendations (Doc. 3). Thereafter, the Magistrate Judge issued a Supplemental Report and Recommendations (Doc. 5). Petitioner did not file objection to the Supplemental Report and Recommendations

¹ Rule 4 specifically provides that, “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner.” Rules Governing § 2254 Cases, Rule 4, 28 U.S.C.A. foll. § 2254; *see also Clark v. Waller*, 490 F.3d 551, 554 (6th Cir. 2007). As stated by the Sixth Circuit, the Rule “permits a district court to dismiss habeas petition *sua sponte* as an initial matter.” *Scott v. Collins*, 286 F.3d 923, 929 (6th Cir. 2002), *abrogated on other grounds by Day v. McDonough*, 547 U.S. 198, 209-10 (2006).

of the Magistrate Judge, and the time for doing so has expired. Accordingly, the issues presented are now ripe for review for the Court.

As required by 29 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and has considered the issues presented *de novo*. Based upon the reasoning and citations of authority set forth in the Magistrate Judge's Reports and Recommendations (Docs. 2, 5), the Court: (1) **ADOPTS** the Reports and Recommendations of the United States Magistrate Judge (Docs. 2, 5) in their entirety; (2) **OVERRULES** Petitioner's Objections (Doc. 3); (3) **DENIES** and **DISMISSES** Petitioner's Petition for Writ of Habeas Corpus (Doc. 1) with prejudice; (4) **DENIES** any request for a certificate of appealability under 28 U.S.C. § 2253(c); and (5) **CERTIFIES** that any appeal would be objectively frivolous and **DENIES** any request for leave to appeal *in forma pauperis*. This case shall be **TERMINATED** on the Court's docket.

IT IS SO ORDERED.

Date: 11/4/13

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