

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

A.D. ARMSTRONG,	:	
Petitioner,	:	
v.	:	Case No. 3:13-cv-335
WARDEN, LEBANON	:	JUDGE WALTER H. RICE
CORRECTIONAL INSTITUTION,	:	
Respondent.	:	

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #6);
DISMISSING PETITION FOR WRIT OF HABEAS CORPUS (DOC. #2)
WITH PREJUDICE; JUDGMENT TO ENTER IN FAVOR OF
RESPONDENT AND AGAINST PETITIONER; DENYING CERTIFICATE
OF APPEALABILITY AND LEAVE TO APPEAL *IN FORMA PAUPERIS*;
TERMINATION ENTRY

On October 15, 2013, United States Magistrate Judge Michael Merz issued a Report and Recommendations (Doc. #6), recommending that A.D. Armstrong's Petition for Writ of Habeas Corpus (Doc. #2) be dismissed with prejudice, and that Petitioner be denied a certificate of appealability. Although the parties were given notice of their right to file objections to the Report and Recommendations, and of

their consequences for failing to do so, no objections have been filed within the time allotted.¹

Based on the reasoning and citations of authority set forth by United States Magistrate Judge Michael R. Merz, in his October 15, 2013, Report and Recommendations (Doc. #6), as well as upon a thorough *de novo* review of this Court's file and the applicable law, this Court ADOPTS said judicial filing in its entirety. The Petition for a Writ of Habeas Corpus (Doc. #2) is DISMISSED WITH PREJUDICE.

Given that Petitioner has not made a substantial showing of the denial of a constitutional right and, further, that the Court's decision herein would not be debatable among reasonable jurists, and because any appeal from this Court's decision would be objectively frivolous, Petitioner is denied a certificate of appealability and denied leave to appeal *in forma pauperis*.

Judgment will be entered in favor of Respondent and against Petitioner.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

¹ On October 23, 2013, the Court did receive a letter from Petitioner complaining about excessive force by corrections officers at the prison. This letter, however, raises no objections to the Magistrate Judge's Report and Recommendations.

Date: November 12, 2013



WALTER H. RICE
UNITED STATES DISTRICT JUDGE