

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

LARRY EALY, :
 :
 Petitioner, :
 :
 v. : Case No. 3:14-cv-57
 : JUDGE WALTER H. RICE
 SHERIFF PHIL PLUMMER, *et al.*, :
 :
 Respondents. :

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #5);
DISMISSING PETITION FOR WRIT OF HABEAS CORPUS (DOC. #1)
WITHOUT PREJUDICE; DENYING CERTIFICATE OF APPEALABILITY
AND LEAVE TO APPEAL *IN FORMA PAUPERIS*; JUDGMENT TO
ENTER IN FAVOR OF RESPONDENTS AND AGAINST PETITIONER;
TERMINATION ENTRY

On February 21, 2014, United States Magistrate Judge Michael R. Merz issued a Report and Recommendations, Doc. #5, recommending that the Petition for Writ of Habeas Corpus, Doc. #1, be dismissed without prejudice for lack of jurisdiction, and that Petitioner be denied a certificate of appealability. Although Petitioner was notified of his right to file Objections to the Report and Recommendations, and of the consequences for failing to do so, no Objections have been filed within the time allotted.

Based on the reasoning and citations of authority set forth by Magistrate Judge Merz, in his Report and Recommendations, 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 Writ of Habeas Corpus, Doc. #1, is DISMISSED WITHOUT PREJUDICE for lack of jurisdiction.

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 is denied leave to appeal *in forma pauperis*.

Judgment will be entered in favor of Respondents 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.

Date: March 11, 2014



WALTER H. RICE
UNITED STATES DISTRICT JUDGE