

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

SAMUEL C. STEIN,

Petitioner,

: Case No. 3:14-cv-274

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

MARK HOOKS, Warden,

:

Respondent.

SUPPLEMENTAL REPORT AND RECOMMENDATIONS

This habeas corpus case is before the Court for a supplemental report and recommendations on the merits. After the Magistrate Judge filed a Report and Recommendations on the merits (the “Report,” Doc. No. 11), Petitioner obtained supplementation of the record (Doc. Nos. 12, 13, 14, 15) and the Magistrate Judge committed to supplementing the Report after considering the newly-submitted portions of the state court record (Doc. No. 13, PageID 1265).

The Magistrate Judge has now listened to Exhibits 26 and 28 and read Exhibits 27 and 29. Having done so, the Magistrate Judge concludes that they do not show that the Second District Court of Appeals decision in this case “resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.” Nor do they prove that either witness Ramga or witness Thompson committed perjury.

Accordingly, it is again respectfully recommended that the Petition be dismissed with prejudice. Because reasonable jurists would not disagree with this conclusion, Petitioner should be denied a certificate of appealability and the Court should certify to the Sixth Circuit that any appeal would be objectively frivolous and therefore should not be permitted to proceed *in forma pauperis*.

January 8, 2015.

s/ **Michael R. Merz**
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985).