

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

THEODORE W. SMITH, III,

Petitioner,

vs.

RONALD ERDOS, Warden,
Southern Ohio Correctional Facility

Respondent.

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Case No. 3:16cv308

JUDGE WALTER H. RICE

PETITIONER’S MOTION FOR DISPOSITIVE RULING OF DISTRICT JUDGE (DOC. #19) OVERRULED AS MOOT; DECISION AND ENTRY ADOPTING IN THEIR ENTIRETY INITIAL (DOC. #12) AND SUPPLEMENTAL (DOC. #17) REPORTS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE; PETITIONER’S OBJECTIONS TO SAID JUDICIAL FILING (DOC. #15 AND #19) OVERRULED; JUDGMENT TO ENTER IN FAVOR OF RESPONDENT AND AGAINST PETITIONER HEREIN; PETITIONER IS DENIED A CERTIFICATE OF APPEALABILITY AND LEAVE TO APPEAL *IN FORMA PAUPERIS*; TERMINATION ENTRY

Based upon the reasoning, citations of authority and citations to the record, set forth in the Initial (Doc. #12) and Supplemental (Doc. #17) Reports and Recommendations of the United States Magistrate Judge, as well as upon a thorough de novo review of this Court’s file and the applicable law, this Court ADOPTS said Reports and Recommendations in their entirety. The Petitioner’s Objections to said judicial filings (Doc. #15 and #19) are OVERRULED.


The Petitioner’s Motion for Dispositive Ruling of District Judge (Doc. #19) is OVERRULED as moot.

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

Given that reasonable jurists would not disagree with this Court's conclusion and, further, given that Plaintiff has failed to set forth a substantial showing of the denial of a federal constitutional right, Petitioner is herein denied a Certificate of Appealability. Further, given that any appeal from this Court's decision would be objectively frivolous, Petitioner is likewise denied the right to appeal *in forma pauperis*.

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

February 24, 2017



WALTER H. RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of record