

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

BRIAN DAMONT HENLEY,	:	Case No. 3:17-cv-421
	:	
Petitioner,	:	Judge Thomas M. Rose
	:	
v.	:	
	:	
DAVID MARQUIS, Warden,	:	
Richland Correctional Institution,	:	
	:	
Respondent.	:	

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**ENTRY AND ORDER OVERRULING OBJECTIONS (DOCS. 24, 29, 34, 38);  
ADOPTING REPORT AND RECOMMENDATIONS (DOC. 21), SUPPLEMENTAL  
REPORT AND RECOMMENDATIONS (DOC. 26), SUBSTITUTED REPORT AND  
RECOMMENDATIONS (DOC. 31) AND SUPPLEMENT TO SUBSTITUTED  
REPORT AND RECOMMENDATIONS (DOC. 37); DISMISSING WITH  
PREJUDICE PETITION FOR WRIT OF HABEAS CORPUS (DOC. 1);  
AND TERMINATING CASE**

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This habeas corpus action is before the Court on Petitioner Brian D. Henley’s Objections (Docs. 24, 29, 34, 38) to Magistrate Judge Michael R. Merz’s Report and Recommendations (Doc. 21), Supplemental Report and Recommendations (Doc. 26), Substituted Report and Recommendations (Doc. 31) and Supplement to the Substituted Report and Recommendations (Doc. 37). Magistrate Judge Merz has recommended that the Court dismiss with prejudice Henley’s Petition for Writ of Habeas Corpus (Doc. 1). Henley objected to each of Magistrate Judge Merz’s entries in this matter, which is now ripe for the Court’s review.

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a *de novo* review of the record in this case. Upon said review, the Court finds that Henley’s Objections (Docs. 24, 29, 34, 38) are not well-taken and they are hereby **OVERRULED**. The Court **ADOPTS** the Report and Recommendations (Doc. 21), Supplemental Report and

Recommendations (Doc. 26), Substituted Report and Recommendations (Doc. 31) and Supplement to the Substituted Report and Recommendations (Doc. 37) in their entirety<sup>1</sup> and **DISMISSES WITH PREJUDICE** Henley's Petition for Writ of Habeas Corpus (Doc. 1). As reasonable jurists would not disagree with this conclusion, Henley is denied a certificate of appealability. The Court further certifies to the Sixth Circuit that any appeal would be objectively frivolous and therefore Henley should not be permitted to proceed *in forma pauperis*.

**DONE** and **ORDERED** in Dayton, Ohio, this Wednesday, November 7, 2018.

s/Thomas M. Rose

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> For the sake of enhancing judicial economy on review, Magistrate Judge Merz entered the Substituted Report and Recommendations (Doc. 31) to replace his prior Reports and Recommendations (Docs. 21, 26) in this matter. In the interest of ensuring the completeness of the record, however, the Court has adopted all four of Magistrate Judge Merz's entries.