

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

LARRY E. BROWN, II,

Petitioner,

Case No. 3:20-cv-113

vs.

NORMAN ROBINSON, Warden,
London Correctional Institution,

District Judge Michael J. Newman
Magistrate Judge Michael R. Merz

Respondent.

ORDER AND ENTRY: (1) ADOPTING THE TWO REPORT AND RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE (Doc. Nos. 43, 47); (2) OVERRULING PETITIONER'S OBJECTIONS (Doc. Nos. 44, 55, 58); (3) DENYING PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS (Doc. No. 3) WITH PREJUDICE; (4) DENYING A CERTIFICATE OF APPEALABILITY; (5) CERTIFYING THAT ANY APPEAL WOULD BE OBJECTIVELY FRIVOLOUS AND FINDING THAT *IN FORMA PAUPERIS* STATUS SHOULD BE DENIED ON APPEAL; AND (6) TERMINATING THIS CASE ON THE DOCKET

This civil case is before the Court on the Report and Recommendation (Doc. No. 43) and Supplemental Report and Recommendation (Doc. No. 47) issued by United States Magistrate Judge Michael R. Merz (hereinafter referred to jointly as "Reports and Recommendations"), to whom this case was referred pursuant to 28 U.S.C. § 636(b). Petitioner filed an objection to both Report and Recommendations. Docs. 44, 55.

Magistrate Judge Merz also filed an order limiting the length of Petitioner's reply brief to 20 pages, per S.D. Ohio Civ. R. 7.2(a). Doc. No. 56. Petitioner objects to this as well, contending it interfered with his ability to present evidence to support his petition. Doc. No. 58. As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive

findings of the Magistrate Judge and considered *de novo* all filings in this matter, including Petitioner's objections.

Upon careful *de novo* consideration of the foregoing, the Court determines that the two Report and Recommendations (Doc. Nos. 43, 47) should be adopted and that Petitioner's objections (Doc. Nos. 44, 55, 58) should be overruled. Magistrate Judge Merz correctly articulated why Petitioner's habeas claims were insufficient as a matter of law. *See* Doc. Nos. 43, 47. Moreover, Magistrate Judge Merz's ruling—that Petitioner was limited to 20 pages in his reply brief—conforms to S.D. Ohio Civ. R. 7.2(a). The Court agrees with Magistrate Judge Merz's conclusions that page limits are common; they do not interfere with Petitioner's right to present legal arguments; and Petitioner already filed 385 pages of legal arguments, so a limitation was necessary. Doc. No. 56 at PageID 2293–94. Accordingly, the Court: (1) **ADOPTS** the Reports and Recommendations of the Magistrate Judge (Doc. Nos. 43, 47) in their entirety; (2) **OVERRULES** Petitioner's objections (Doc. Nos. 44, 55, 58); (3) **DENIES** Petitioner's petition (Doc. No. 3) **WITH PREJUDICE**; (4) **DENIES** Petitioner a certificate of appealability; (5) **CERTIFIES** that any appeal would be objectively frivolous and finds that Petitioner should be denied *in forma pauperis* status on appeal; and (6) **TERMINATES** this case on the Court's docket.

IT IS SO ORDERED.

Date: May 9, 2022

s/ Michael J. Newman
Hon. Michael J. Newman
United States District Judge