

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, WESTERN DIVISION AT CINCINNATI

Ryan C. Etherson-Tabb v. Warden, Southeast Correctional
Institution

Etherson-Tabb · No. 1:25cv00409 · Decided February 20, 2026

SUMMARY

The United States District Court for the Southern District of Ohio adopted the Magistrate Judge’s Report and Recommendations after the petitioner failed to file timely objections. The court dismissed the habeas corpus petition with prejudice, denied a certificate of appealability, and denied leave to appeal in forma pauperis.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Western Division at Cincinnati
WRITING FOR THE COURT	Michael R. Barrett
JURISDICTION	United States District Court for the Southern District of Ohio, Western Division at Cincinnati
DECIDED	February 20, 2026
DOCKET	1:25cv00409
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's report and recommendations in a state prisoner's federal habeas proceeding. The court adopted the R&R after the petitioner failed to file timely objections, dismissed the habeas petition with prejudice, denied a certificate of appealability, and denied leave to appeal in forma pauperis.
STANDARD OF REVIEW	The district court reviewed the magistrate judge's report and recommendations under Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1)(C). Because no timely objections were filed, the court accepted and adopted the R&R.
PRECEDENTIAL VALUE	Unpublished district court order; limited precedential value
PARTIES	Ryan C. Etherson-Tabb v. Warden, Southeast Correctional Institution

TOPICS

federal habeas corpus

post-conviction relief

appellate procedure

civil procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court should accept and adopt the magistrate judge's report and recommendations when the petitioner filed no timely objections.
2. Whether the federal habeas petition should be dismissed with prejudice.
3. Whether a certificate of appealability should be denied.
4. Whether petitioner should be denied leave to appeal in forma pauperis because any appeal would be objectively frivolous.

HOLDINGS

1. When a habeas petitioner receives proper notice under Federal Rule of Civil Procedure 72(b) and fails to file timely objections, the district court may accept and adopt the magistrate judge's report and recommendations.
2. The petition for a writ of habeas corpus is dismissed with prejudice.
3. A certificate of appealability is denied because reasonable jurists would not disagree with the court's conclusion.
4. Petitioner is denied leave to appeal in forma pauperis because any appeal to the United States Court of Appeals for the Sixth Circuit would be objectively frivolous.

FACTUAL BACKGROUND

Ryan C. Etherson-Tabb, a state prisoner, sought federal habeas relief concerning his state-court custody. Respondent submitted the state-court record and a return of writ, while petitioner did not file a reply. After receiving notice of the magistrate judge's recommendation and the deadline for objections, petitioner filed no objections.

PROCEDURAL HISTORY

Petitioner filed a petition for a writ of habeas corpus. Respondent filed the state-court record and a return of writ, and petitioner filed no reply. The magistrate judge recommended dismissal with prejudice and denial of a certificate of appealability. After proper notice, petitioner filed no objections by the February 17, 2026 deadline. The district court accepted and adopted the R&R, dismissed the petition with prejudice, denied a certificate of appealability, and certified that an appeal would be objectively frivolous.

DISPOSITION

dismissed

CASES CITED

- United States v. Walters, 638 F.2d 947 (6th Cir. 1981)
- Berkshire v. Dahl, 928 F.3d 520, 530 (6th Cir. 2019)

OPINION

Etherson-Tabb

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION AT CINCINNATI

RYAN C. ETHERSON-TABB,

Petitioner, Case No. 1:25cv00409 v. Judge Michael R. Barrett WARDEN, Southeast Correctional Institution, Respondent.

ORDER

This matter is before the Court on the January 28, 2026 Report and Recommendations (“R&R”) filed by the Magistrate Judge (Doc. 14), in which he recommends that Ryan Etherson- Tabb’s Petition for a Writ of Habeas Corpus¹ be dismissed with prejudice and that a certificate of appealability be denied. Proper notice was given to Petitioner (who proceeds pro se) under Fed. R. Civ. P. 72(b), including notice that he may forfeit rights on appeal if he failed to file objections to the R&R in a timely manner.² United States v. Walters, 638 F.2d 947 (6th Cir. 1981); see Berkshire v. Dahl, 928 F.3d 520, 530 (6th Cir. 2019). Because Petitioner was served by mail, pursuant to Fed. R. Civ. P. 6(d) an additional 3 days were added (to the 14 days prescribed by Rule 72).³ Accordingly, Petitioner’s objections were due no later than February 17, 2026. To date, no objections have been filed and the time to do so has passed. The R&R (Doc. 14) of the Magistrate Judge is hereby ACCEPTED and ADOPTED. 1 Respondent filed the State Court Record (Doc. 11) followed by a Return of Writ (Doc. 12). Petitioner did not file a reply. 2 See also 28 U.S.C. § 636(b)(1)(C). 3 See also Fed. R. Civ. P. 6(a)(1)(C) (“When the period is stated in days or a longer until of time: include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.”). Consistent with the recommendation by the Magistrate Judge, the Petition (Doc. 1) is DISMISSED with prejudice. Because reasonable jurists would not disagree with this conclusion, Petitioner is DENIED a certificate of appealability. The Court CERTIFIES that any appeal to the United States Court of Appeals for the Sixth Circuit would be objectively frivolous and, consequently, Petitioner is DENIED leave to appeal in forma pauperis. IT IS SO ORDERED.

s/ Michael R. Barrett

JUDGE MICHAEL R. BARRETT

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