

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
OHIO, EASTERN DIVISION

Edward A. Smith v. Leon Hill, Warden

Smith v. Hill · No. 1:22-cv-7 · Decided January 27, 2026

SUMMARY

The United States District Court for the Northern District of Ohio adopted the Magistrate Judge’s Report and Recommendation in Edward A. Smith’s federal habeas action. The court dismissed the petition with prejudice, finding the first three grounds procedurally defaulted and the fourth ground non-cognizable, after Smith failed to object to the Report and Recommendation.

CASE DETAILS

COURT	United States District Court for the Northern District of Ohio, Eastern Division
WRITING FOR THE COURT	J. Philip Calabrese
JURISDICTION	United States District Court for the Northern District of Ohio, Eastern Division
DECIDED	January 27, 2026
DOCKET	1:22-cv-7
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought federal habeas corpus relief under 28 U.S.C. § 2254. The matter was before the district court on a magistrate judge's Report and Recommendation recommending dismissal of the petition. No objections were filed.
STANDARD OF REVIEW	The district court independently reviewed the record for clear error after the petitioner failed to object to the Report and Recommendation.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Edward A. Smith v. Leon Hill, Warden

TOPICS

- federal habeas corpus
- post-conviction relief
- default
- civil procedure
- constitutional law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the petitioner's ineffective-assistance claim concerning trial counsel was procedurally defaulted.
2. Whether the petitioner's ineffective-assistance claims concerning the 2019 resentencing were procedurally defaulted.
3. Whether the petitioner's double-jeopardy claim was cognizable in federal habeas proceedings when based on the state court's application of res judicata.
4. Whether the district court should adopt the magistrate judge's Report and Recommendation when the petitioner filed no objections.

HOLDINGS

1. The claim was procedurally defaulted because Smith did not fairly present it through Ohio's ordinary appellate review process and failed to establish cause and prejudice or a fundamental miscarriage of justice to excuse the default.
2. The claims were procedurally defaulted because Smith failed properly to raise and present them at each level of state-court review, including by failing timely to seek review in the Supreme Court of Ohio, and he failed to establish an excuse for the defaults.
3. The double-jeopardy claim was not cognizable in the federal habeas action because it challenged the state court's application of res judicata rather than presenting a cognizable violation of the Fifth Amendment's Double Jeopardy Clause.
4. A party's failure timely to object to a magistrate judge's Report and Recommendation, after being advised of the potential consequence, results in forfeiture of appellate review of the issues addressed in the recommendation, although forfeited issues may be considered in certain circumstances.

KEY QUOTATIONS

“Therefore, the Court ADOPTS the Report and Recommendation (ECF No. 43) and DISMISSES the action WITH PREJUDICE.”

“We clarify that forfeiture, rather than waiver, is the relevant term here.”

FACTUAL BACKGROUND

Smith pleaded guilty to aggravated murder in 1988 and was sentenced to 20 years to life in prison. Following a successful appeal concerning his sentence, he was resentenced in 2019 to life imprisonment with parole eligibility after 20 years. He later pursued unsuccessful direct and collateral challenges in state court before filing a federal habeas petition asserting ineffective-assistance and double-jeopardy claims.

PROCEDURAL HISTORY

Smith pleaded guilty to aggravated murder in 1988 after being bound over from juvenile court and received a sentence of 20 years to life. After successfully challenging that sentence on appeal, he was resentenced in 2019 to life imprisonment with parole eligibility after 20 years. He unsuccessfully challenged his conviction through direct appeal and state collateral proceedings, then filed this federal habeas action asserting four grounds for relief. The magistrate judge recommended dismissal of all claims, and the district court adopted that recommendation after Smith failed to object.

DISPOSITION

dismissed

CASES CITED

- United States v. Wandahsega, 924 F.3d 868, 878 (6th Cir. 2019)
- United States v. Walters, 638 F.2d 947, 949–50 (6th Cir. 1981)
- Thomas v. Arn, 474 U.S. 140, 152 (1985)
- Berkshire v. Beauvais, 928 F.3d 520, 530 (6th Cir. 2019)
- Harris v. Klare, 902 F.3d 630, 635–36 (6th Cir. 2018)
- United States v. Olano, 507 U.S. 725, 733 (1993)
- Freytag v. Commissioner, 501 U.S. 868, 894 n.2 (1991) (Scalia, J., concurring)

OPINION

Hill

PER CURIAM.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OHIO

EASTERN DIVISION

EDWARD A. SMITH,) Case No. 1:22-cv-7) Petitioner,) Judge J. Philip Calabrese) v.)
Magistrate Judge) Amanda M. Knapp LEON HILL, Warden,)) Respondent.))

ORDER

Before the Court is the Magistrate Judge’s Report and Recommendation (ECF No. 43) in this habeas action. The Magistrate Judge recommends that the Court dismiss the petition for a writ of habeas corpus, which would have the effect of denying relief. In the Report and Recommendation, the Magistrate Judge summarized the factual and procedural history of the case. (Id., PageID #1262–85.) In short, Mr. Smith pleaded guilty to aggravated murder in 1988 after being bound over from juvenile court. (Id., PageID #1261.) He was sentenced to 20 years to life in prison. (Id.) After a successful appeal challenging his 1988 sentence, Mr. Smith was resentenced in 2019 to life in prison with parole eligibility after 20 years. (Id.) Petitioner unsuccessfully challenged his conviction on direct appeal and through collateral proceedings in State court before commencing this action. (Id., PageID #1289.) Petitioner asserts four grounds for relief. (ECF No. 17, PageID

#100.) With respect to ground one, the Magistrate Judge recommends that the Court dismiss the claim as procedurally defaulted because Mr. Smith failed fairly to present the claim of ineffective assistance of trial counsel, “let alone pursue that claim through the State’s ordinary appellate review process,” and because Mr. Smith did not meet his burden to show cause and prejudice or a fundamental miscarriage of justice to excuse the default. (ECF No. 43, PageID #1288–94.) With respect to grounds two and three, the Magistrate Judge recommends that the Court dismiss the claims as procedurally defaulted because Mr. Smith failed properly to raise and present his claims of ineffective assistance of counsel related to his 2019 resentencing at each level of State court review, including not timely seeking review by the Supreme Court of Ohio, and because Mr. Smith did not meet his burden to show cause and prejudice or a fundamental miscarriage of justice to excuse the defaults. (Id., PageID #1294–98.) With respect to ground four, the Magistrate Judge recommends that the Court deny the claim of double jeopardy as non-cognizable because it concerns the State court’s application of the doctrine of res judicata and does not support a cognizable claim under the Double Jeopardy Clause of the Fifth Amendment. (Id., PageID #1298–1301.) The Report and Recommendation stated that any objections were due fourteen days after service and advised Petitioner that failure to timely object may waive the right to appeal the Court’s order. (Id., PageID #1301.) The Report and Recommendation was filed on the docket on December 16, 2025 (ECF No. 43) and mailed to Petitioner the same day. Nonetheless, Petitioner has failed to object to the Magistrate Judge’s Report and Recommendation. Under the law of this Circuit, “failure to object to a magistrate judge’s Report and Recommendation results in a waiver of appeal on that issue as long as the magistrate judge informs parties of that potential waiver.” *United States v. Wandahsega*, 924 F.3d 868, 878 (6th Cir. 2019) (emphasis added); *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981); see also *Thomas v. Arn*, 474 U.S. 140, 152 (1985) (holding that the Sixth Circuit’s waiver rule is within its supervisory powers and “[t]here is no indication that Congress, in enacting § 636(b)(1)(C), intended to require a district judge to review a magistrate’s report to which no objections are filed”). The Sixth Circuit clarified this rule: failure to object is not a waiver, but a forfeiture. *Berkshire v. Beauvais*, 928 F.3d 520, 530 (6th Cir. 2019) (“We clarify that forfeiture, rather than waiver, is the relevant term here.”). This is so because “[w]aiver is different from forfeiture.” *United States v. Olano*, 507 U.S. 725, 733 (1993); *Freytag v. Commissioner*, 501 U.S. 868, 894 n.2 (1991) (Scalia, J., concurring) (noting the Supreme Court’s cases “often used [waiver and forfeiture] interchangeably,” but that “[t]he two are really not the same.”). This difference matters because forfeited issues may, in certain circumstances, nevertheless “be considered on appeal.” *Berkshire*, 928 F.3d at 530 (citing *Harris v. Klare*, 902 F.3d 630, 635–36 (6th Cir. 2018)). In any event, the time for filing objections to the Report and Recommendation has passed. Petitioner neither objected, nor provided some legitimate reason why he failed to do so. Further, upon the Court’s independent review of the record, there does not appear to be clear error in the Magistrate Judge’s Report and Recommendation. Therefore, the Court ADOPTS the Report and Recommendation (ECF No. 43)

and DISMISSES the action WITH PREJUDICE. SO ORDERED. Dated: January 27, 2026
J.Philip Calabrese” United States District Judge Northern District of Ohio

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