

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MICHAEL JOSEPH NEWBURY,)
)
 Petitioner,)
)
 v.) Civil No. 08-299-B-W
)
STATE OF MAINE,)
)
 Respondent.)

**ORDER AFFIRMING THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge filed with the Court on September 17, 2008 her Recommended Decision (Docket # 4). The Petitioner filed his objections to the Recommended Decision (Docket # 5) on October 2, 2008. I have reviewed and considered the Magistrate Judge’s Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge’s Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decision, and determine that no further proceeding is necessary.

1. It is therefore ORDERED that the Recommended Decision of the Magistrate Judge is hereby AFFIRMED.
2. It is further ORDERED that the Petitioner’s 28 U.S.C. § 2254 Petition (Docket # 1) be and hereby is DENIED as it is untimely.
3. It is further ORDERED that no certificate of appealability should issue in the event the Petitioner files a notice of appeal because there is no substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C. § 2253(c)(2).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 6th day of October, 2008