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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS_____
THOMAS SMITH,)) Petitioner,)

) v.)

) Civil Action No. 11-10362-NMG

) THE ATTORNEY GENERAL)
) OF THE STATE OF)
) MASSACHUSETTS,)) Respondent.)
_____)REPORT AND RECOMMENDATION ON RESPONDENT'S MOTION TO DISMISS

January 10, 2012

SOROKIN, M.J.

On March 3, 2011, Thomas Smith, acting pro se, petitioned for a writ of habeas corpus pursuant to 28 U.S.C., § 2254, as amended by the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA). Docket #1. On December 21, 2011, the Respondent filed her Motion to Dismiss on the grounds that the Petition contains both exhausted and unexhausted claims. Docket # 16. For the following reasons, I RECOMMEND that the Court ALLOW the Respondent's Motion, unless the Petitioner dismisses the unexhausted claims in order to proceed with the exhausted claims

I. PROCEDURAL BACKGROUND

On October 16, 2006, after a jury trial before Bristol Superior Court Judge Richard T.

*Report and Recommendation accepted and
adopted. S.M. Gorton, USDJ 2/9/12*