

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROGER ALLEN DOWDY,

Petitioner,

v.

CASE NO. 06-CV-10735
HONORABLE VICTORIA A. ROBERTS
UNITED STATES DISTRICT JUDGE

JERI-ANN SHERRY,

Respondent.

**OPINION AND ORDER DENYING AS MOOT THE MOTION FOR SUMMARY
JUDGMENT AND FOR IMMEDIATE CONSIDERATION**

On December 10, 2008, the Court issued an opinion and order denying Petitioner's application for habeas relief brought pursuant to 28 U.S.C. § 2254. The Court also denied Petitioner a certificate of appealability but granted him leave to appeal *in forma pauperis*. *See Dowdy v. Sherry*, 2008 WL 5188827 (E.D. Mich. December 10, 2008). Before the Court is Petitioner's motion for summary judgment and for immediate consideration, signed and dated December 8, 2008, prior to the issuance of the Court's opinion in this case. Petitioner requests summary judgment because the respondent failed to serve a copy of the Rule 5 materials upon Petitioner when she filed the materials with the Court.

Given this Court's previous determination that Petitioner is not entitled to federal habeas relief, the motion for summary judgment will be denied as moot. *See Ortiz v. Williams*, 489 F. Supp. 2d 381, 386 (D. Del. 2007). Petitioner's motion for immediate

consideration is likewise moot in light of this Court's adjudication of his habeas petition.

See Juenemann v. Jones, No. 2005 WL 2347105, * 3 (E.D. Mich. September 23, 2005).

ORDER

IT IS ORDERED that the Motion for Summary Judgment and for Immediate Consideration [Court Dkt Entry # 60] is **DENIED**.

S/Victoria A. Roberts

Victoria A. Roberts

United States District Judge

Dated: December 29, 2008

The undersigned certifies that a copy of this document was served on the attorneys of record and Roger Allen Dowdy by electronic means or U.S. Mail on December 29, 2008.

s/Carol A. Pinegar

Deputy Clerk