

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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|------------------------------|---|-----------------|
| DERRICK CHAPPELL, |) | |
| |) | Civil Action |
| Petitioner |) | No. 06-CV-03713 |
| |) | |
| vs. |) | |
| |) | |
| LOUIS FOLINO, |) | |
| THE DISTRICT ATTORNEY OF THE |) | |
| COUNTY OF DELAWARE and |) | |
| THE ATTORNEY GENERAL OF THE |) | |
| STATE OF PENNSYLVANIA, |) | |
| |) | |
| Respondents |) | |

O R D E R

NOW, this 18th day of May, 2009, upon consideration of the pro se Petition for Writ of Habeas Corpus, which petition was filed on August 18, 2006; upon consideration of the Answer to Petition Seeking Writ of Habeas Corpus, which answer was filed November 21, 2006; upon consideration of the Report and Recommendation of United States Magistrate Judge David R. Strawbridge filed April 27, 2007; upon consideration of Petitioner's Written Objections to Magistrate Judge's Report and Recommendation, which objections were filed on June 7, 2007; upon consideration of Petitioner's Addendum to Petition for Writ of Habeas Corpus, which addendum was filed May 22, 2008; it appearing that petitioner's objections to Magistrate Judge Strawbridge's Report and Recommendation are a restatement of the issues raised in his underlying petition for habeas corpus relief and are without merit; it further appearing after de novo review of this matter that Magistrate Judge Strawbridge's Report and

Recommendation correctly determined the legal and factual issues presented in the petition for habeas corpus relief,

IT IS ORDERED that Magistrate Judge Strawbridge's Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that petitioner's objections to Magistrate Judge Strawbridge's Report and Recommendation are overruled.¹

IT IS FURTHER ORDERED that the pro se petition for habeas corpus relief is denied without a hearing.

IT IS FURTHER ORDERED that because petitioner fails to demonstrate denial of a constitutional right, a certificate of appealability is denied.

1. When objections are filed to a magistrate judge's report and recommendation, I am required to make a de novo determination of those portions of the report, findings or recommendations made by the magistrate judge to which there are objections. 28 U.S.C. § 636(b)(1); Rule 72.1(IV)(b) of the Rules of Civil Procedure for the United States District Court for the Eastern District of Pennsylvania. Furthermore, district judges have wide latitude regarding how they treat recommendations of the magistrate judge. See United States v. Raddatz, 447 U.S. 667, 100 S.Ct. 2406, 65 L.Ed.2d 424 (1980). Indeed, by providing for a de novo determination, rather than a de novo hearing, Congress intended to permit a district judge, in the exercise of the court's sound discretion, the option of placing whatever reliance the court chooses to place on the magistrate judge's proposed findings and conclusions. I may accept, reject or modify, in whole or in part any of the findings or recommendations made by the magistrate judge. Raddatz, supra.

As noted above, I conclude that petitioner's objections to Magistrate Judge Strawbridge's Report and Recommendation are nothing more than a restatement of the underlying claims contained in his petition for habeas corpus. Moreover, upon review of the Report and Recommendation, together with de novo review of this matter, I conclude that the Report and Recommendation correctly determines the legal issues raised by petitioner.

Accordingly, I approve and adopt Magistrate Judge Strawbridge's Report and Recommendation and overrule petitioner's objections to the Report and Recommendation.

IT IS FURTHER ORDERED that the Clerk of Court shall
mark this matter closed for statistical purposes.

BY THE COURT:

/s/ JAMES KNOLL GARDNER
James Knoll Gardner
United States District Judge