

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

| | | |
|-----------------------|---|--------------|
| ERIC E. SMITH, | : | CIVIL ACTION |
| | : | No. 08-2901 |
| Petitioner, | : | |
| | : | |
| v. | : | |
| | : | |
| SUPERINTENDENT OF SCI | : | |
| HUNTINGDON, et al., | : | |
| | : | |
| Respondents. | : | |

O R D E R

AND NOW, this **3rd day of December 2009**, upon consideration of the Report and Recommendation of United States Magistrate Judge L. Felipe Restrepo (doc. no. 13) and Petitioner's objections thereto (doc. no. 15), it is hereby **ORDERED** as follows:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**;
2. Petitioner's objections to the Report and Recommendation are **OVERRULED**;

3. The Petition for Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2254, (doc. no. 5) is **DISMISSED**.¹

AND IT IS SO ORDERED.

s/Eduardo C. Robreno
EDUARDO C. ROBRENO, J.

¹ Petitioner has objected generally to the Magistrate's Report and Recommendation. The Court, having carefully reviewed the Magistrate's thoughtful and thorough recommendation, will overrule Petitioner's objections and adopt the Report and Recommendation. In summary, Petitioner's fifth, sixth and seventh claims were not properly exhausted in the state courts. Petitioners first, second, third and fourth claims do not warrant habeas relief based upon the required deference to the factual determinations of the state courts.