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

GARY CHEATHAM, Petitioner,	:	CIVIL ACTION
v.	:	No. 09-2398
BRIAN COLEMAN, et al., Respondents.	:	

ORDER

AND NOW, this 28th day of October, 2009, upon consideration of the Petition for Writ of Habeas Corpus, Respondents' Answer thereto, Petitioner's "Response to the Respondents," the Report and Recommendation of United States Magistrate Judge Lynne A. Sitarski dated September 14, 2009, Petitioner's objections to the Report and Recommendation, and after a thorough and independent review of the record, it is hereby **ORDERED** that:

1. Petitioner's objections are **OVERRULED**;
2. The Report and Recommendation is **APPROVED** and **ADOPTED**;
3. The Petition for Writ of Habeas Corpus is **DENIED** with prejudice and **DISMISSED** as untimely without an evidentiary hearing; and
4. There is no probable cause to issue a certificate of appealability.

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.

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