

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

ANTHONY JOHNSON : CIVIL
 : ACTION : : :
v. : NO. 10-990

RANDALL E. BRITTON, ET AL.

ORDER

AND NOW, this 25th day of October, 2010, upon careful and independent consideration of the Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Docket No. 1), as well as the Petitioner's "Amended Habeas Corpus Petition" (Docket No. 10), and after review of United States Magistrate Judge Timothy R. Rice's Report and Recommendation (Docket No. 14), to which Petitioner has filed no Objections, **IT IS HEREBY ORDERED** that:

1. The Report and Recommendation of Magistrate Judge Rice is **APPROVED** and **ADOPTED**;
2. Both the Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 and the "Amended Habeas Corpus Petition" are **DISMISSED WITH PREJUDICE**;¹

1

Petitioner filed two habeas Petitions in this action – an initial Petition in March of 2010, and an Amended Petition, which the Clerk docketed on June 3, 2010. In the Report and Recommendation ("R&R"), Magistrate Judge Rice addresses only the initial Petition, recommending that it be dismissed as untimely, because it was filed almost seven months after the one-year limitations period in 28 U.S.C. § 2244(d) had expired. Although the R&R does not specifically address the Amended Petition, its analysis is equally applicable to that petition. We therefore approve and adopt the R&R and, based on its analysis, dismiss both the Petition and the Amended Petition.

John R. Padova, J.

3. Because Petitioner has failed to make a substantial showing of the denial of a constitutional right or to demonstrate that a reasonable jurist would debate the correctness of this ruling, the Court declines to issue a certificate of appealability under 28 U.S.C. § 2253(c)(2); and

4. The Clerk shall **CLOSE** this case statistically.

BY THE COURT:

/s/ John R. Padova, J.