

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

|                          |   |              |
|--------------------------|---|--------------|
| GEORGE SMITH [#FD-2316], | : | CIVIL ACTION |
| Petitioner,              | : |              |
|                          | : |              |
| v.                       | : |              |
|                          | : |              |
| JON FISHER, et al.,      | : | NO. 11-6018  |
| Respondents.             | : |              |

**ORDER**

AND NOW, this 15<sup>th</sup> day of February, 2012, upon careful and independent consideration of the petition for a writ of habeas corpus, the response, and Petitioner's reply to the response, and after review of the Report and Recommendation of United States Magistrate Judge David R. Strawbridge, it is **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**;
2. The petition for a writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE**;
3. A certificate of appealability **SHALL NOT** issue, in that the Petitioner has not made a substantial showing of the denial of a constitutional right nor demonstrated that a reasonable jurist would debate the correctness of this ruling. *See* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); and
4. The Clerk of the Court shall mark this case **CLOSED** for statistical purposes.

BY THE COURT:

  
 MITCHELL S. GOLDBERG, J.