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

HOWARD GIBSON,

FILED

CIVIL ACTION

Petitioner, JUL 10 2013

v.

MICHAEL L. KUNZ, Clerk
By: *PK* Dep. ClerkMICHAEL WENEROWICZ, and, THE
ATTORNEY GENERAL OF THE STATE
OF PENNSYLVANIA,

NO. 11-7751

Respondents.

ORDER

AND NOW, this 9th day of July, 2013, upon consideration of the *pro se* Petition for Habeas Corpus Filed Pursuant To 28 U.S.C. § 2254 by Howard Gibson, the record in this case, the Report and Recommendation of United States Magistrate Judge Lynne A. Sitariski dated March 5, 2013, and Objection to Report and Recommendation filed by Howard Gibson, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge Lynne A. Sitariski dated March 5, 2013, is **APPROVED** and **ADOPTED** except to the extent that the Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2254 filed by petitioner, Howard Gibson, will be dismissed, not denied, on the ground that it was not timely filed;
2. The Objection to the Report and Recommendation which does not address the issue of timely filing of the Petition for Writ of Habeas Corpus is **OVERRULED**;
3. Howard Gibson's *pro se* Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 is **DISMISSED** on the ground that it was not timely filed; and,
4. A certificate of appealability will not issue because reasonable jurists would not

debate this Court's procedural ruling as required under 28 U.S.C. § 2253(c)(2). See Slack v. McDaniel, 529 U.S. 473, 484 (2000).

BY THE COURT:



DuBOIS, JAN E., J.