

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

JEFFREY MCBRIDE	:	CIVIL ACTION
	:	
v.	:	No. 13-3077
	:	
STEVEN R. GLUNT	:	
<i>SUPERINTEND OF THE STATE</i>	:	
<i>CORRECTIONAL INSTITUTION AT</i>	:	
<i>HOUTZDALE, et al.</i>	:	

ORDER

AND NOW, this 19th day of October, 2017, upon careful and independent consideration of Petitioner Jeffrey McBride’s pro se Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, and after de novo review of the Report and Recommendation of United States Magistrate Judge Carol Sandra Moore Wells, to which no objections have been filed,¹ it is ORDERED:

- The Report and Recommendation (Document 15) is APPROVED and ADOPTED;
- McBride’s Petition for Writ of Habeas Corpus (Document 3) is DISMISSED as moot²; and

¹ The Report and Recommendation was sent to all parties of record on April 10, 2017, together with a Notice from the Clerk of Court advising the parties of their obligation to file any objections within 14 days after service of the Notice. *See* Local R. Civ. P. 72.1 IV(b) (“Any party may object to a magistrate judge’s proposed findings, recommendations or report under 28 U.S.C. § 636(b)(1)(B), and subsections 1(c) and (d) of this Rule within fourteen (14) days after being served with a copy thereof.”). As of today’s date, no objections have been filed.

² In his habeas petition, McBride seeks relief from his sentence of mandatory life imprisonment without parole based on *Miller v. Alabama*, 567 U.S. 460, 465 (2012), in which the Supreme Court held a sentence of “mandatory life without parole for those under the age of 18 at the time of their crimes violates the Eighth Amendment’s prohibition on ‘cruel and unusual punishments.’” In addition to filing the instant federal habeas petition, McBride also sought relief based on *Miller* in state court by filing a petition pursuant to the Pennsylvania Post Conviction Relief Act (PCRA). Although the PCRA court denied the petition, on appeal, the Pennsylvania Superior Court reversed the PCRA court’s denial of relief on McBride’s *Miller* claim, vacated McBride’s life sentence, and remanded the case for resentencing. *See Commonwealth v. McBride*, No. 2187 EDA 2015, 2017 WL 362616, at *6-7 (Pa. Super. Ct. Jan.

- The Clerk of Court is directed to mark this case CLOSED.

BY THE COURT:

/s/ Juan R. Sánchez
Juan R. Sánchez, J.

25, 2017). McBride thereafter filed a petition for allowance of appeal in the Pennsylvania Supreme Court, presumably to challenge the denial of habeas relief on his non-*Miller* claims, but the Supreme Court denied the petition on September 8, 2017. *See Commonwealth v. McBride*, No. CP-51-CR-0013114-2007 (Pa. Ct. Com. Pl.), docket available at <https://ujportal.pacourts.us/DocketSheets/CPReport.ashx?docketNumber=CP-51-CR-0013114-2007> (reflecting the Pennsylvania Supreme Court's September 8, 2017, denial of McBride's petition for allowance of appeal). As the Magistrate Judge recognized, because the Superior Court has already vacated McBride's sentence pursuant to *Miller* and remanded the case for resentencing, granting McBride the same relief he seeks in this Court, his federal habeas petition is now moot.