

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

MALIK BOWERS, : CIVIL ACTION
Petitioner :
 :
 :
 v. :
 : No. 13-05550
MICHAEL WENEROWICZ, et al. :
Respondents :

FILED
JUL 12 2017

KATE BARKMAN, Clerk
By _____ Dep. Clerk

ORDER

AND NOW, this 12 day of July, 2016, upon careful and independent consideration of Malik Bowers' petition for writ of habeas corpus and supporting memorandum of law (Doc. Nos. 1 and 11), the Commonwealth's opposing brief (Doc. No. 25), Bower's reply brief (Doc. No. 26), the post-hearing briefs of both Bowers and the Commonwealth (Doc. Nos. 58 and 62), and after review of the Report and Recommendation of United States Magistrate Richard A. Lloret, ^{Amended} IT IS ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED;
2. The petition for a writ of habeas corpus is GRANTED in part as to Bowers' claim that direct appeal counsel was ineffective for failing to raise and litigate the federal due process issue concerning the jury instructions;

3. Execution of the writ is STAYED for ninety (90) days from the date of this Order to permit the Commonwealth to commence a new trial on the first degree murder charge. If Bowers new trial does not commence within the time specified, the writ shall issue, and the Commonwealth shall vacate Bowers' conviction on the first degree murder charge.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'BMS', is written over a horizontal line.

HON. BERLE M. SCHILLER
U.S. District Judge