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

LASHAWN SANDERS,	:	CIVIL ACTION
Petitioner,	:	
	:	
V.	:	
	:	
SUPERINTENDENT LINK et al.,	:	
Respondents.	:	No. 16-4318

<u>ORDER</u>

AND NOW, this 15th day of May, 2018, upon consideration of the Petition for Writ of

Habeas Corpus filed by Petitioner Lashawn Sanders (Doc. No. 1), the Response thereto (Doc.

No. 7), Petitioner's Reply (Docket No. 9), Magistrate Judge Elizabeth Hey's Report &

Recommendation (Doc. No. 11), and Petitioner's Objection to the Report & Recommendation

(Doc. No. 13), it is hereby **ORDERED** that:

- 1. The Petitioner's Objections (Doc. No. 13) are **OVERRULED**.¹
- 2. The Report & Recommendations are **APPROVED** and **ADOPTED**.
- 3. The Petition for Writ of *Habeas Corpus* (Doc. No. 1) is **DISMISSED** with prejudice without an evidentiary hearing.
- 4. There is no probable cause to issue a certificate of appealability.²

¹ The Court agrees with Magistrate Judge Hey that Mr. Sanders's petition is untimely under 28 U.S.C. § 2244(d). *See* Report & Recommendation at 4. Further, the Court agrees with Magistrate Judge Hey that Mr. Sanders has not alleged facts sufficient to show that he is entitled to equitable tolling. *See id.* at 6. To the extent Mr. Sanders's objections go to the underlying merits of his case, the Court finds his arguments moot.

² A certificate of appealability may issue only upon "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). A petitioner must "demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Lambert v. Blackwell*, 387 F.3d 210, 230 (3d Cir. 2004). The Court agrees with Magistrate Judge Hey that there is no probable cause to issue such a certificate in this action.

5. The Clerk of Court shall mark this case **CLOSED** for all purposes, including statistics.

BY THE COURT:

<u>S/Gene E.K. Pratter</u> GENE E.K. PRATTER UNITED STATES DISTRICT JUDGE