

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

FILED JUL 18 2017

JUAN RODRIGUEZ

CIVIL ACTION

v.

GERALD MAY et al

NO. 16-cv-05353-LS

AND NOW this 18 day of July, 2017, upon careful and independent consideration of Juan Rodriguez's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. No. 1), the revised petition (Doc. No. 5), Juan Rodriguez's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 (Doc. No. 5), the Commonwealth's response in opposition (Doc. No. 11), and the Report and Recommendation of U.S. Magistrate Judge Richard A. Lloret, it is ORDERED that:

1. The Report and Recommendation of Magistrate Judge Richard A. Lloret is APPROVED and ADOPTED;
2. Rodriguez's Petitions for Writ of Habeas Corpus are DENIED and DISMISSED without prejudice by separate Judgment, filed contemporaneously with this Order. *See* Federal Rule of Civil Procedure 58(a); Rules Governing Section 2254 Cases in the United States District Courts, Rule 12;
3. No certificate of appealability shall issue under 28 U.S.C. § 2253(c)(1)(A) because "the applicant has [not] made a substantial showing of the denial of a constitutional right[,]" under 28 U.S.C. § 2253(c)(2), since he has not demonstrated that "reasonable jurists" would find my "assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see United States v. Cepero*, 224 F.3d 256, 262-63 (3d Cir.

ENTERED

JUL 18 2017

CLERK OF COURT

2000), *abrogated on other grounds by Gonzalez v. Thaler*, 565 U.S. 134
(2012); and

4. The Clerk of Court shall mark this file closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'L. F. Stengel', written over a horizontal line.

HON. LAWRENCE F. STENGEL
U.S. District Judge