

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

DAYMON BIRCKETT,

Petitioner,

v.

ROBERT MCGINLEY, et al.,

Respondents.

:
:
:
:
:
:
:
:
:
:
:

CIVIL ACTION

NO. 18-1533

ORDER

AND NOW, this __1st__ day of May, 2020, upon careful and independent consideration of Petitioner’s Petition for Writ of Habeas Corpus (Doc. 1), Magistrate Judge Richard A. Lloret’s Report and Recommendation (“Report and Recommendation”) (Doc. 43), and Petitioner’s Objections to the Report and Recommendation (Doc. 47), **IT IS HEREBY ORDERED AND DECREED** as follows:

1. The Report and Recommendation of Magistrate Judge Richard A. Lloret is **APPROVED and ADOPTED**;
2. Mr. Birckett’s Motion for Request for Judicial Notice Pursuant to Federal Rules of Evidence Rule 201(c) (Doc. No. 42) is DENIED; 3. Mr. Birckett’s Petition for Writ of Habeas Corpus is DENIED and DISMISSED with 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; 4. 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. 2000), abrogated on other grounds by Gonzalez v. Thaler, 565
U.S. 134 (2012); and 5. The Clerk of Courts shall mark this file closed.

3. Petitioner’s Motion for Extension of Time is **DENIED AS MOOT**.

BY THE COURT:

/s/ Petrese B. Tucker

Hon. Petrese B. Tucker, U.S.D.J.