

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

DERRICK WHITE

v.

MICHAEL ZAKEN¹

:
:
:
:
:

CIVIL ACTION NO. 19-1654

ORDER

This 6th day of January 2021, upon independent consideration of the pleadings and available state court records, and after review of the Report and Recommendation of United States Magistrate Judge Elizabeth T. Hey, as well as consideration of Petitioner's Objections to the Report and Recommendation, it is hereby **ORDERED** that:

1. Petitioner's objections² are overruled and the Report and Recommendation is **APPROVED** and **ADOPTED**;
2. The petition for a writ of habeas corpus is **DENIED**;
3. A certificate of appealability **SHALL NOT** issue, in that the Petitioner has not made a substantial showing of the denial of a constitutional right, nor demonstrated that reasonable jurists would debate the correctness of this court's assessment of the constitutional claims at issue; *see* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); and

¹ The petition identified the Respondent as Robert Gilmore, the superintendent of State Correctional Institution ("SCI") Greene in Waynesburg, Pennsylvania, where White is housed. Currently, the superintendent of SCI Greene is Michael Zaken, see <https://www.cor.pa.gov/Facilities/StatePrisons/Pages/Greene.aspx> (last visited December 23, 2020), and I have renamed the Respondent accordingly. See Rules Governing Section 2254 Cases, Rule 2(a) (requiring officer with current custody of petitioner to be named as respondent).

² Petitioner's objections are simply an artful reformulation of the arguments made in the original petition for relief, ECF 1, and amended petition, ECF 8, as supplemented by affidavit. ECF 15, ECF 22. The relevant points were fully and correctly addressed by Judge Hey in her 38-page Report and Recommendation. Given the thoroughness of her analysis the objections do not require separate discussion.

4. The Clerk of the Court shall mark this case **CLOSED** for statistical purposes.

/s/ Gerald Austin McHugh
United States District Judge