

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

BARRY CRUMBLEY,)	
)	Civil Action
Petitioner,)	No. 10-cv-03639
)	
v.)	
)	
DEBRA K. SAUERS;)	
COMMONWEALTH OF PENNSYLVANIA;)	
THE ATTORNEY GENERAL OF THE)	
STATE OF PENNSYLVANIA; and)	
DISTRICT ATTORNEY OF LEHIGH)	
COUNTY,)	
)	
Respondents)	

O R D E R

NOW, this 18th day of October, 2011, upon consideration of the following documents:

(1) Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody filed by petitioner Barry Crumbley pro se on July 14, 2010¹ (Document 1);

(2) Response to Petition for Writ of Habeas Corpus, which response was filed by respondents on December 7, 2010 (Document 12); and

(3) Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport filed July 14, 2011 (Document 13);

it appearing that as of the date of this Order no objections have been filed to the Report and Recommendation of Magistrate Judge

¹ Although the docket entries reflect that the petition for writ of habeas corpus was filed July 23, 2010, I issued an Order filed August 3, 2010 explaining that petitioner Barry Crumbley included correspondence dated July 14, 2010 with his petition, suggesting that he also executed the petition on that date. Pursuant to the prison mailbox rule, and consistent with Magistrate Judge Rapoport's determination, this court will consider the date of filing as July 14, 2010. The prison mailbox rule deems a motion to have been filed on the date the petitioner delivered his petition to prison officials to mail. Burns v. Morton, 134 F.3d 109, 113 (3d Cir. 1997).

Rapoport; it further appearing after review of this matter that Magistrate Judge Rapoport's thorough, comprehensive and persuasive Report and Recommendation correctly determined the legal and factual issues presented in the petition for habeas corpus relief,

IT IS ORDERED that Magistrate Judge Rapoport's Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that the petition for habeas corpus relief is denied without an evidentiary hearing.

IT IS FURTHER ORDERED that because petitioner has not met statutory requirements to have his case heard, and no reasonable jurist could find this ruling debatable, and because petitioner fails to demonstrate denial of a constitutional right, a certificate of appealability is denied.²

IT IS FURTHER ORDERED that the Clerk of Court shall mark this matter closed for statistical purposes.

BY THE COURT:

/s/ James Knoll Gardner
James Knoll Gardner
United States District Judge

² Slack v. McDaniel, 529 U.S. 473, 484, 120 S.Ct. 1595, 1604, 146 L.Ed.2d 542, 555 (2000).