

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

DARIN L. HAUMAN,	:	CIVIL NO. 1:15-CV-1159
	:	
Petitioner	:	(Chief Judge Conner)
	:	
v.	:	
	:	
BRIAN V. COLEMAN, et al.,	:	
	:	
Respondents	:	

ORDER

AND NOW, this 17th day of July, 2017, upon consideration of petitioner’s motion (Doc. 47) for reconsideration, wherein he requests that the court reconsider its order (Doc. 44) deeming as withdrawn his motion for partial summary judgment based on petitioner’s failure to file a brief in support of the motion, and it appearing that petitioner has set forth grounds warranting reconsideration of the prior court order, see North River Ins. Co. v. Cigna Reinsurance Co., 52 F.3d 1194, 1218 (3d Cir. 1995), but, the court nonetheless finding that petitioner’s underlying request to pursue summary judgment is inappropriate in a habeas proceeding, because, under the Federal Rules of Civil Procedure, the procedure the court should follow when entertaining an application for a writ of habeas corpus under 28 U.S.C. § 2254 begins with the issuance of a service order, followed by the filing of a response by the person having custody of the petitioner, the filing of a reply by the petitioner, then a hearing, if deemed necessary by the court, and a decision, see 28 U.S.C. § 2243, see e.g., Cool v. Pennsylvania, 2008 WL 2858310 (M.D. Pa. 2008) (finding that a

motion for summary judgment is inappropriate in a section 2254 habeas action); Ghaziaskar v. Ashcroft, 2005 WL 1138377 (M.D. Pa. 2005) (construing petitioner's motions for judgment as a matter of law as motions for default judgment, and denying the motions as unauthorized by the statutory provisions and rules related to habeas corpus proceedings), it is hereby ORDERED that:

1. The motion (Doc. 47) for reconsideration is GRANTED.
2. The motion (Doc. 36) for partial summary judgment is deemed WITHDRAWN based on the alternative grounds addressed herein.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania