

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

ANGELO LENELL DAVIS,	:	CIVIL ACTION NO. 1:16-CV-357
	:	
Petitioner	:	(Chief Judge Conner)
	:	
v.	:	
	:	
LAUREL HARRY,	:	
	:	
Respondent	:	

ORDER

AND NOW, this 9th day of May, 2016, upon consideration of the report (Doc. 9) of Magistrate Judge Joseph F. Saporito, Jr., recommending the court dismiss the petition (Doc. 1) for writ of habeas corpus filed by Angelo Lenell Davis (“Davis”) for lack of subject matter jurisdiction pursuant to 28 U.S.C. § 2244(b)(2), without prejudice to Davis’s right to seek preauthorization from the Third Circuit Court of Appeals to file a second or successive petition pursuant to 28 U.S.C. § 2244(b)(3), and following an independent review of the record, the court being in agreement Judge Saporito that Davis’s petition is indeed an improper second or successive petition and thus is procedurally improper and subject to summary dismissal, and it appearing that Davis did not object to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure of a party to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district

court should “afford some level of review to dispositive legal issues raised by the report,” Henderson, 812 F.2d at 878; see also Taylor v. Comm’r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int’l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following an independent review of the record, the court in agreement with Judge Saporito’s recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 9) of Magistrate Judge Saporito is ADOPTED.
2. The petition (Doc. 1) for writ of habeas corpus filed by petitioner Angelo Lenell Davis (“Davis”) is DISMISSED without prejudice to Davis’s right to request leave from the Third Circuit Court of Appeals to pursue a second or successive petition pursuant to 28 U.S.C. §§ 2244(b)(2) and (b)(3).
3. The court finds no basis to issue a certificate of appealability. See 28 U.S.C. § 2253(c); R. GOVERNING § 2254 CASES R. 11(a).
4. The Clerk of Court is directed to CLOSE this case.

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