

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

**DAVID KELLY-BEY,
Petitioner**

v.

**COURT OF COMMON PLEAS OF
CUMBERLAND COUNTY, et al.,
Respondents**

: **No. 3:17cv1882**
:
: **(Judge Munley)**
:
: **(Magistrate Judge Carlson)**
:
:
:
:

ORDER

AND NOW, to wit, this 21st day of February 2019, we have before us for disposition Magistrate Judge Martin C. Carlson’s report and recommendation, which proposes that David Kelly-Bey’s petition for a writ of habeas corpus in this case be dismissed as moot given petitioner’s release from custody. The magistrate judge further recommends that the petitioner be deemed to have abandoned this case by failing to provide the court with an address where he can be reached, a violation of Local Rule 83.18.

No objections to the report and recommendation have been filed, and the time for such filing has passed. Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(B) 1983 Advisory Committee Notes (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation”);

see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither clear error on the face of the record nor manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

1. The magistrate judge's report and recommendation (Doc. 15) is **ADOPTED**;
2. The petition for a writ of habeas corpus (Doc. 1) in this case is **DISMISSED AS MOOT** and deemed abandoned;
3. Based upon the reasoning in the report and recommendation, we decline to issue a certificate of appealability. See 28 U.S.C. § 2253(c) and 3d Cir. LAR. 22; and
4. The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:



JUDGE JAMES M. MUNLEY
United States District Court