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

| | | |
|---|---|---|
| ANTHONY GEORGE ALLEN, | ) | |
| Plaintiff, | ) | |
| | ) | Civil Action No. 05-31 Erie |
| v. | ) | |
| UNITED STATES OF AMERICA, | ) | |
| Defendant. | ) | |

**MEMORANDUM ORDER**

This civil rights action was received by the Clerk of Court on January 26, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 25], filed on January 20, 2006, recommended that Defendant's motion to dismiss for lack of jurisdiction or, in the alternative, motion for summary judgment [Doc. No. 21] be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendant. No objections were filed. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 7th day of February, 2006;

IT IS HEREBY ORDERED that the Defendant's motion to dismiss for lack of jurisdiction or, in the alternative, motion for summary judgment [Doc. No. 21] is GRANTED.

The Report and Recommendation [Doc. No. 25] of Magistrate Judge Baxter, filed on January 20, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge

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