

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

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|--|---|------------------------------|
| HOMER GUY, |) | |
| |) | |
| Petitioner, |) | Case No. 1:08-cv-358-SJM-SPB |
| |) | |
| v. |) | |
| |) | |
| SUPERINTENDENT SOBINA, <i>et al.</i> , |) | |
| |) | |
| Respondents. |) | |

MEMORANDUM ORDER

The instant petition for writ of habeas corpus was filed on March 19, 2009 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 Report and Recommendation, filed on March 7, 2011 [22], recommends that the instant petition for writ of habeas corpus be dismissed for lack of subject matter jurisdiction and that a certificate of appealability be denied. The parties were allowed fourteen (14) days from the date of service in which to file objections. Service was made on Petitioner by certified mail at SCI-Albion, where he is currently incarcerated, and on the Respondents. No objections to the Report and Recommendation have been filed.

After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 5th Day of April, 2011;

IT IS ORDERED that the instant petition for writ of habeas corpus be, and hereby is, DISMISSED for lack of subject matter jurisdiction. Inasmuch as reasonable jurists would not find it debatable whether this Court lacks subject matter jurisdiction over the instant habeas corpus petition, IT IS FURTHER ORDERED that no certificate of appealability shall issue.

The Report and Recommendation of Magistrate Judge Baxter, filed on March 7, 2011 [22], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

Cm: All parties of record.

U.S. Magistrate Judge Susan Paradise Baxter