

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

JOSE CRUZ,)	
)	
)	
Petitioner,)	
v.)	Civil Action No. 18-2 Erie
)	Judge Nora Barry Fischer
COMMONWEALTH OF PA, et. al,)	Magistrate Judge Susan P. Baxter
)	
)	
Defendants.)	

ORDER OF COURT

AND NOW, this 31st day of August, 2018, after a Report and Recommendation was filed by United States Magistrate Judge Susan P. Baxter on August 10, 2018, (Docket No. [6]), recommending that Petitioner Jose Cruz’s writ of habeas corpus be dismissed, without prejudice, to commencing another federal habeas case, after he exhausts his state court remedies, and granted Petitioner 14 days to file written objections thereto, and no objections having been lodged by this date, and upon independent review of the record, and upon consideration of Magistrate Judge Baxter’s Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that Petitioner’s Writ of Habeas Corpus [5] is DISMISSED, without prejudice, to Petitioner commencing another federal habeas case after he has fully exhausted his state court remedies;

IT IS FURTHER ORDERED that no certificate of appealability shall issue as Petitioner has not demonstrated a substantial showing of the denial of a constitutional right;

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED; and

FINALLY, IT IS ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if Petitioner wishes to appeal from this Order a notice of appeal, as provided in Fed. R. App. P. 3, must be filed with the Clerk of Court, United States District Court, at 17 South Park Row, Erie, PA, within thirty (30) days.

/s/ Nora Barry Fischer
Nora Barry Fischer
United States District Judge

CC: Jose Cruz
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