

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

EDWARD DOMES,)	
)	Civil Action No. 08 - 1402
Petitioner,)	
)	District Judge Gary L.
v.)	Lancaster
)	
WARDEN MELVIN LOCKETT, PA)	
ATTORNEY GENERAL, and THE)	
ALLEGHENY COUNTY DISTRICT)	
ATTORNEY,)	
)	
Respondents.)	

MEMORANDUM ORDER

On October 6, 2008, the above captioned case was initiated by the filing of a Motion to Proceed In Forma Pauperis accompanied by a Petition for Writ of Habeas Corpus and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation filed on November 13, 2008 (doc. no. 6) recommended that the Petition for Writ of Habeas Corpus be dismissed as a successive 2254 petition for which the Petitioner has not demonstrated the necessary certification from the Court of Appeals for the Third Circuit as required under 28 U.S.C. § 2244(b)(3). On November 28, 2008, Petitioner filed Objections to the Report and Recommendation (doc. no. 7). Petitioner's objections do not undermine the recommendation of the Magistrate Judge.

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

AND NOW, this 4th day of December, 2008;


IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is **DISMISSED** as a successive 2254 petition for which the Petitioner has not demonstrated the necessary certification from the Court of Appeals for the Third Circuit as required under 28 U.S.C. § 2244(b)(3).

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (doc. no. 6) of Magistrate Judge Lenihan dated November 13, 2008, is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:


Gary L. Lancaster
United States District Judge

cc: Lisa Pupo Lenihan
United States Magistrate Judge

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