

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

JAMES RAYMOND BORCHERT,)

Petitioner,)

v.)

**BRIAN COLEMAN, THE DISTRICT
ATTORNEY OF THE COUNTY OF**)

BUTLER COUNTY, WILLIAM H.)

RYAN, The Attorney General of the State)
of Pennsylvania,)

Respondents.)

2:11cv741

Electronic Filing

Judge Cercone

Magistrate Judge Lenihan

MEMORANDUM ORDER

On June 6, 2011, the above captioned case was initiated by the filing of a Petition for Writ of Habeas Corpus (ECF No. 1) and was referred to a united states magistrate judge 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 filed a Report and Recommendation on June 7, 2011 (ECF No. 3) recommending that the Petition for Writ of Habeas Corpus be dismissed for failure to have exhausted state court remedies and that a certificate of appealability be denied. On June 24 2011, and July 6, 2011, Petitioner filed Objections to the Report and Recommendation (ECF Nos. 4, 5). 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 8th day of August, 2011;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is **DISMISSED**.

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

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 3) is **ADOPTED** as the Opinion of the Court.

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.



David Stewart Cercone
United States District Judge

cc: James Raymond Borchert
HU 3252
P. O. Box 9999
LaBelle, PA 15450

(Via First Class Mail)