

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

JOSEPH HOWELL,	)	
	)	
Petitioner,	)	2:12cv884
	)	Electronic Filing
v.	)	Judge David Stewart Cercone /
	)	Magistrate Judge Maureen P. Kelly
MARIROSA LAMAS,	)	
SUPERINTENDANT AT S.C.I.	)	
ROCKVIEW; THE ATTORNEY	)	
GENERAL OF THE COMMONWEALTH	)	
OF PENNSYLVANIA; THE DISTRICT	)	Re: ECF No. 21
ATTORNEY OF THE COUNTY OF	)	
ALLEGHENY,	)	
Respondents.	)	

**MEMORANDUM ORDER**

The above-captioned pro se Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus (the “Petition”) was received by the Clerk of Court on June 27, 2012, and was referred to Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Civil Rules 72.C and D.

Respondents filed a Motion to Dismiss the Petition. ECF No. 21. Magistrate Judge Kelly’s Report and Recommendation, ECF No. 25, filed on May 5, 2014, recommended that the Motion to Dismiss be denied albeit without prejudice to raising in the Answer those defenses raised in the Motion to Dismiss and addressing some additional issues. The parties were informed that, in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and the local rules, they had a until May 22, 2014 to file objections. No objections were filed. Accordingly, after *de novo* review of the pleadings and the documents in the case, together with the Report and Recommendation, the following order is entered:


AND NOW, this 4<sup>th</sup> day of June 2014,

IT IS HEREBY ORDERED that the Motion to Dismiss is hereby DENIED without prejudice to raising the defenses in the Answer and addressing the issues noted in the Report.

IT IS FURTHER ORDERED that the Report and Recommendation, ECF No. 25, filed on May 5, 2014, by Magistrate Judge Kelly, is adopted as the opinion of the Court.

IT IS FURTHER ORDERED that no later than June 27, 2014, the Respondents are to file their Answer to the Petition. The Respondents are also ordered to cause the original State Court record to be transmitted to the Clerk of this Court no later than July 7, 2014.

June 4<sup>th</sup>  
Date: ~~May~~ \_\_, 2014

  
\_\_\_\_\_  
DAVID STEWART CERCONE  
UNITED STATES DISTRICT JUDGE

cc: The Honorable Maureen P. Kelly  
United States Magistrate Judge

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(Via First Class Mail)

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