

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

JOSEPH HOWELL,)
)
Petitioner,)
)
v.)
)
MARIROSA LAMAS)
SUPERINTENDANT AT S.C.I.)
ROCKVIEW, THE ATTORNEY)
GENERAL OF THE)
COMMONWEALTH OF)
PENNSYLVANIA, THE DISTRICT)
ATTORNEY OF THE COUNTY OF)
ALLEGHENY,)
)
Respondents.)

2:12cv884
Electronic Filing

MEMORANDUM ORDER

AND NOW, this 1st day of March, 2017, after *de novo* review of the record and upon due consideration of [34] the magistrate judge’s report and recommendation filed on January 25, 2016, and [39] petitioner's objections thereto, IT IS ORDERED that petitioner's objections are overruled, the Petition for Writ of Habeas Corpus is dismissed and the concomitant request for a certificate of appealability is denied. The report and recommendation as augmented below is adopted as the opinion of the court.

Petitioner's objections are without merit. Petitioner's contention - that the underrepresentation of the African-American population in the Allegheny County jury pools at the time of his trial is statistically sufficient to warrant an evidentiary hearing to further develop his Sixth Amendment fair-cross-section claim - is unavailing. As Judge Klein aptly opined, petitioner's argument and core statistical evidence fail to account for the difference between

statistical underrepresentation that is troubling because it fails to reflect the county population as a whole and statistical underrepresentation that runs afoul of the Sixth Amendment. This core statistical evidence presents the foundation for petitioner's fair-cross-section claim. But even if it is augmented by other anecdotal evidence, it is insufficient to render the county jury-pool system utilized at the time of petitioner's trial constitutionally deficient. In other words, petitioner has failed to present a sound reason for further development of the record. Consequently, the writ of habeas corpus and the concomitant request for a certificate of appealability have been denied

s/David Stewart Cercone
David Stewart Cercone
United States District Judge

cc: Joseph Howell
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(Via First Class Mail)

Rusheen R. Pettit, Esquire

(Via CM/ECF Electronic Mail)