

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

ANDY BUXTON,)	
)	
Petitioner,)	2:17cv594
)	Electronic Filing
v.)	
)	Judge David Stewart Cercone/
COMMONWEALTH OF)	Chief Magistrate Judge Maureen P. Kelly
PENNSYLVANIA; THE ATTORNEY)	
GENERAL OF THE STATE OF)	
PENNSYLVANIA,)	
)	
Respondents.)	

ORDER

Andy Buxton (“Petitioner”) initiated these proceedings under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody on May 8, 2017. ECF No. 1. Petitioner is seeking to attack his conviction obtained in the Court of Common Pleas of Allegheny County.

Commonwealth v. Buxton, CP-02-CR-0001413-2013 (CCP Allegheny County). The case was referred to Chief Magistrate Judge Maureen Kelly in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Civil Rules 72.C and D.

Chief Magistrate Judge Kelly issued a Report and Recommendation (the “Report”), recommending that the Petition be stayed pending Petitioner’s exhaustion of his state court remedies, specifically, until his second Post Conviction Relief Act (“PCRA”) Petition has been finally adjudicated. The Report was served upon Petitioner at his address of record and he was informed that he had until June 16, 2017 to file Objections to the Report. No Objections have been filed.

Accordingly, after *de novo* review of the Report and the record of this case, it is hereby **ORDERED** that the Report is adopted as the opinion of the Court and we hereby **ORDER** that

the Petition be stayed pending exhaustion of Petitioner's state court remedies. Petitioner is ORDERED to notify the Court no later than 45 days after the state courts have disposed of his second PCRA Petition, including any appellate court decisions. Failure to do so may result in the dismissal of the Petition for failure to prosecute. To the extent one is necessary, a certificate of appealability is **DENIED**.

Date: June 28, 2017

s/ DAVID STEWART CERCONE
David Stewart Cercone
United States District Judge

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

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