

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

GREGORY BROWN, : CIVIL ACTION  
Petitioner, :  
 :  
v. :  
 :  
 :  
JOSEPH W. CHESNEY, and :  
THE DISTRICT ATTORNEY OF :  
THE COUNTY OF MONTGOMERY, :  
Respondents. : NO. 99-2283

MEMORANDUM ORDER

J.M. KELLY, J.

AUGUST 10, 1999

Gregory Brown ("Brown"), filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (1994). A Report and Recommendation was filed by United States Magistrate Judge Charles B. Smith who recommended that the Petition be denied and dismissed without an evidentiary hearing. Brown has now filed the present Objections to the Report and Recommendation.

Brown renews his argument that the Pennsylvania courts failed to provide him with a full and fair hearing on a Motion to Suppress certain evidence. Upon an independent and thorough review of the underlying record, the Court finds that Brown had a full and fair opportunity to litigate, and in fact did litigate, whether the plastic bags found in his jacket were discovered incident to a police officer's valid attempt to retrieve what appeared to be a weapon from Brown's pocket. Further, Brown has not shown how discovering plastic bags incident to the seizure of an apparent weapon is contrary to clearly established Federal

law.

Consequently, it is ORDERED:

1. The Report and Recommendation is APPROVED and ADOPTED.

2. The Petition for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2254, is DENIED and DISMISSED without and evidentiary hearing.

3. There is no cause to issue a Certificate of Appealability.

BY THE COURT:

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JAMES MCGIRR KELLY, J.