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

DANIEL J. CARR	:	**CIVIL ACTION**
	:	
	:	
v.	:	
	:	
COMMONWEALTH OF PENNSYLVANIA, et al.	:	**NO. 01-CV-2792**
	:	
	:	

MEMORANDUM AND ORDER

Norma L. Shapiro, S.J. **March 14, 2003**

Petitioner Daniel J. Carr is presently incarcerated at the State Correctional Institution in Dallas, Pennsylvania. Carr filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, alleging ineffective assistance of counsel. This petition was referred to United States Magistrate Judge Diane M. Welsh who issued a Report and Recommendation ("R&R") that the petition be denied. Carr's objections to the R&R contend that Strickland v. Washington, 466 U.S. 468 (1984), was misapplied to his ineffective assistance claims. Specifically, Carr argues that his counsel was ineffective in: (1) failing to object to the admission of a statement of non-testifying co-defendant, Gerald Laarz; (2) failing to object to the redacted version of the Laarz statement; (3) failing to request a limiting instruction concerning the Laarz statement; (4) failing to investigate the existence of or call as trial witnesses two individuals who

allegedly would have provided exculpatory information; and (5) failing to use the “clean-up agreement” between petitioner and the Commonwealth as evidence at trial. Carr contends that Judge Welsh erred in finding that he had not met the Strickland test for ineffective assistance.

Strickland provides that to establish ineffective assistance, a defendant must show that: (1) counsel’s performance was deficient; and (2) the deficient performance prejudiced the defense. Strickland, 466 U.S. at 687. The prejudice prong of the test requires the defendant to show that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. Id. at 694. Petitioner has not shown that counsel was deficient and any deficiency that might have been shown was harmless because it would not have affected the result, due to the weight of the evidence against him. The court has considered Carr’s objections and finds that they lack merit. The objections do not present any arguments not addressed in his original petition. The State court was correct in its findings and Judge Welsh’s R&R was thorough and well-reasoned. Therefore, the R&R is approved and adopted.

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COMMONWEALTH OF PENNSYLVANIA,	:	**NO. 01-CV-2792**
et al.	:	
	:	

ORDER

AND NOW, this ____ day of March, 2003, upon consideration of the Petition for Habeas Corpus, de novo review of the Report and Recommendation of United States Magistrate Judge Diane M. Welsh, the objections thereto, and for the reasons stated in the foregoing Memorandum, it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED AND ADOPTED;**

2. The Petition for Writ of Habeas Corpus is **DENIED AND DISMISSED**, with prejudice; and

3. A certificate of appealability is **DENIED**.