

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

JEFFREY GIDDINGS : CIVIL ACTION
 :
 vs. :
 :
 EDWARD KLEM, et al. : NO. 04-3847

MEMORANDUM

ROBERT F. KELLY, Sr. J.

NOVEMBER 18, 2004

On October 21, 2004 a Report and Recommendation was filed in the above-captioned case. The Report recommended denial of the Petition for Writ of Habeas Corpus for the reason that it was filed beyond the period of the statute of limitations.

Petitioner raised for the first time in his Objections to the Report and Recommendation that the statute of limitations was equitably tolled. Because the Magistrate Judge did not have this before her at the time she wrote the Report and Recommendation we are remanding this case in order to allow this issue to be considered.

I therefore enter the following Order.

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ORDER

AND NOW, this 18th day of November, 2004, it is **ORDERED** that the above-captioned case is remanded to the Honorable Linda K. Caracappa, United States Magistrate Judge for a Report and Recommendation.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE