

CLD-124

March 18, 2021

JAMES E. NOTTINGHAM, Appellant

VS.

SUPERINTENDENT CAMP HILL SCI, ET AL.

20-3423

ORDER

We have jurisdiction over the District Court's November 6, 2020 order denying Nottingham's post-judgment motions. See 28 U.S.C. § 1291; Ohntrup v. Firearms Ctr., Inc., 802 F.2d 676, 678 (3d Cir. 1986) (per curiam). To the extent that a certificate of appealability is not required, the District Court's order entered November 6, 2020, is summarily affirmed because no substantial question is presented on appeal. See 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.6. The District Court did not err in denying Nottingham's motions as moot because "the issues presented [were] no longer live [and] the parties lack[ed] a legally cognizable interest in the outcome." United Steel Paper & Forestry Rubber Mfg. Allied Indus. & Serv. Workers Int'l Union AFL-CIO-CLC v. Gov't of the Virgin Islands, 842 F.3d 201, 208 (3d Cir. 2016). To the extent that a certificate of appealability is required, see Harbison v. Bell, 556 U.S. 180, 183 (2009), jurists of reason would not debate the District Court's judgment because the motions were based on conclusory allegations and were meritless. See Slack v. McDaniel, 529 U.S. 473, 484 (2000).

CERTIFIED APRIL 22, 2021, at Page 3, by the Court

By the Court,

s/Paul B. Matey

Circuit Judge

Dated: March 31, 2021
Tmm/cc: James E. Nottingham
Ronald Eisenberg, Esq.



Certified as a true copy and issued in lieu
of a formal mandate on April 22, 2021

Teste: *Patricia A. Didegum, t*
Clerk, U.S. Court of Appeals for the Third Circuit

JAMES E. NOTTINGHAM, et al., Petitioners, v. LAUREL HARRY, Superintendent, et al.,
Respondents.

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

2020 U.S. Dist. LEXIS 107688

No. 3:19-CV-01949

June 19, 2020, Decided

June 19, 2020, Filed

Editorial Information: Prior History

Nottingham v. Harry, 2020 U.S. Dist. LEXIS 84947 (M.D. Pa., May 13, 2020)

Counsel {2020 U.S. Dist. LEXIS 1} **James E. Nottingham**, Petitioner, Pro se,
Camp Hill, PA.

Judges: Matthew W. Brann, United States District Judge. (Magistrate Judge Mehalchick).

Opinion

Opinion by: Matthew W. Brann

Opinion

ORDER

Petitioners **James E. Nottingham** and William Haight filed the instant action on November 13, 2019. It was jointly assigned to the undersigned and to a magistrate judge. Upon designation, a magistrate judge may "conduct hearings, including evidentiary hearings, and . . . submit to a judge of the court proposed findings of fact and recommendations."¹ Once filed, this report and recommendation is disseminated to the parties who can then object.²

On May 13, 2020, Magistrate Judge Karoline Mehalchick, to whom this matter is jointly assigned, issued a thorough report and recommendation recommending that the Court dismiss the instant action for lack of jurisdiction without prejudice to Nottingham's right to seek pre-authorization from the United States Court of Appeals for the Third Circuit under 28 U.S.C. § 2244(b)(3). Further, Magistrate Judge Mehalchick recommended that the Court decline to issue a certificate of appealability.³

Nottingham filed objections to the report and recommendation on May 29, 2020.⁴ When objections are timely filed, the District Court must {2020 U.S. Dist. LEXIS 2} conduct a *de novo* review of those portions of the report to which objections are made.⁵ Although the standard of review for objections is *de novo*, the extent of review lies within the discretion of the District Court, and the Court may otherwise rely on the recommendations of the magistrate judge to the extent that it deems proper.⁶ For portions of the report and recommendation to which no objection is made, the Court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."⁷ Regardless of whether timely objections are made by a party, the District Court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.⁸

Because I write solely for the parties, I will not restate the facts. Instead, I adopt the recitation of facts

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as set forth by the magistrate judge. I have conducted a *de novo* review here and found no error.

AND NOW, IT IS HEREBY ORDERED that:

1. Magistrate Judge Karoline Mehalchick's May 13, 2020 Report and Recommendation, Doc. 20, is **ADOPTED** in full.
2. Petitioner Nottingham's Petition, Doc. 1, is **DISMISSED**{2020 U.S. Dist. LEXIS 3} for lack of jurisdiction.⁹ This dismissal is without prejudice to Nottingham's right to seek pre-authorization from the United States Court of Appeals for the Third Circuit.¹⁰
3. Petitioner Nottingham's Motion for Leave to Proceed *in Forma Pauperis*, Doc. 5, is **DISMISSED AS MOOT**.
4. The Court declines to issue a certificate of appealability.¹¹
5. The Clerk of Court is directed to close the case file.

BY THE COURT:

/s/ Matthew W. Brann

Matthew W. Brann

United States District Judge