

NOT PRECEDENTIAL

THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 00-1266

WARREN JOHNS

Appellant,

v.

WILLIAM J. LOVE, SUPERINTENDENT;
THE ATTORNEY GENERAL OF THE STATE OF PENNSYLVANIA;
THE DISTRICT ATTORNEY FOR PHILADELPHIA COUNTY

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

(D.C. Civil No. 92-cv-05169)
District Judge: The Honorable Eduardo C. Robreno

Submitted Under Third Circuit LAR 34.1(a)
March 22, 2002

BEFORE: NYGAARD, ROTH, and AMBRO, Circuit Judges.

(Filed: June 13, 2002)

OPINION OF THE COURT

NYGAARD, Circuit Judge.

Appellant, Warren Johns, appeals from the magistrate judge's report and recommendation dated September 24, 1993, which was adopted by the District Court in its order entered on June 24, 1994, denying his petition for habeas corpus relief. He appeals raising one issue: that the District Court erred when it decided that the evidence of guilt was sufficient to prove his guilt beyond a reasonable doubt. We will affirm.

I.

The facts and procedural history of this case are well known to the parties and the court, and it is not necessary that we restate them here. The reasons why we write an opinion of the court are threefold: to instruct the District Court, to educate and inform the attorneys and parties, and to explain our decision. None of these reasons are presented here. We use a non-precedential opinion in cases such as this, in which a

precedential opinion is rendered unnecessary because it has no institutional or precedential value. See United States Court of Appeals for the Third Circuit, Internal Operating Procedure (I.O.P.) 5.2. Under the usual circumstances when we affirm by not-precedential opinion and judgment, we "briefly set[] forth the reasons supporting the court's decision . . ." I.O.P. 5.4. In this case, however, we have concluded that neither a full memorandum explanation nor a precedential opinion is indicated because of the very extensive and thorough report and recommendation prepared by the magistrate judge, which was adopted and filed by Judge Robreno of the District Court. The Report and Recommendation adequately explains and fully supports its order and refutes the appellant's allegation of error. Hence, we believe it wholly unnecessary to further opine, or offer additional explanations and reasons to those given by the District Court, why we will affirm. It is a sufficient explanation to say that, essentially for the reasons given by the magistrate judge in its report and recommendation dated September 24, 1993, and adopted by the District Court in its order entered on June 24, 1994, denying habeas corpus relief to appellant, we will affirm.

II.

In sum, for the foregoing reasons, we will affirm the order of the District Court entered on June 24, 1994.

TO THE CLERK:

Please file the foregoing opinion.

/s/ Richard L. Nygaard
Circuit Judge

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JUDGMENT

This cause came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on March 22, 2002.

On consideration whereof, it is now here ORDERED AND ADJUDGED by this Court that the order of the said District Court entered on June 24, 1994, be, and the same is hereby affirmed.

All of the above in accordance with the opinion of this Court.

ATTEST:

Clerk

Dated: 13 June 2002