

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

**FRANCIS E. O'NEILL** : **No. 06-CV-2043**

**v.** :

**JAMES GRACE, et al.** :  
**FRANCIS E. O'NEILL** : **No. 99-CV-3762**

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**v.** :

**FREDERICK FRANK, et al.** :

**MEMORANDUM and ORDER**

On July 26, 1999, petitioner filed a petition in this court seeking habeas corpus relief pursuant to 28 U.S.C. § 2254, which the Clerk of this Court properly labeled as 99-CV-3762. On May 22, 2000, this court dismissed 99-CV-3762 on two grounds: that the statute of limitations barred its consideration; and, that this court had no jurisdiction under the second or successive rule of 28 U.S.C. § 2244 to consider it.

On May 15, 2006, petitioner filed a motion in this court in which he seeks relief from the rulings heretofore entered in 99-CV-3762 pursuant to Federal Rule of Civil Procedure 60(b). The Clerk of this Court designated the 60(b) motion as 06-CV-2043.

**AND NOW**, this 31<sup>st</sup> day of July 2006, **IT IS HEREBY ORDERED** that:

1. Civil action 99-3762 and 06-2043 are consolidated for all purposes.
2. Whereas petitioner paid the \$5.00 filing fee in both 99-CV-3762 and 06-CV-2043, the Clerk of this Court is to refund \$5.00 to petitioner paid in 06-CV-2043. The actions as consolidated are referred for the second time to the Honorable Arnold C. Rapoport, United States Magistrate Judge, for Report and Recommendation, and Magistrate Judge Rapoport shall give Respondents a reasonable opportunity to respond to

petitioner's allegations. As per Local Civil Rule 72.IV( c), all issues and evidence shall be presented to the United States Magistrate Judge, and that new issues and evidence shall not be raised after the filing of the Report and Recommendation if they could have been presented to the United States Magistrate Judge.

BY THE COURT:

s/ \_\_\_\_\_

Clifford Scott Green, S.J.