

Having reviewed the parties' papers and applied the standard of review articulated above, this court concludes that the magistrate judge has correctly found the facts and applied the law. Therefore, this court adopts Magistrate Judge Burns' recommended findings and conclusions at docket 17. Based thereon, the petition at docket 1 is **DENIED**, and this case is **DISMISSED**.

IT IS FURTHER ORDERED THAT this court will not grant the Certificate of Appealability required by 28 U.S.C. § 2253(c), nor will it grant leave to proceed on appeal *in forma pauperis*, because dismissal of the petition is clearly warranted by a plain procedural bar, and jurists of reason would not find the procedural bar debatable. If petitioner desires to take an appeal he must request a Certificate of Appealability from the Court of Appeals. See Fed. R. App. P. 22(b)(1).

DATED at Anchorage, Alaska this 13th day of August 2010.

/S/

JOHN W. SEDWICK
UNITED STATES DISTRICT JUDGE