

**MINUTES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Brian Allen Wilkins v. Suzanne Shirleson, et al.

THE HONORABLE JOHN W. SEDWICK

2:10-cv-00443 JWS

PROCEEDINGS:

ORDER FROM CHAMBERS

September 30, 2011

Brian Allen Wilkins (“petitioner”) moves for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was briefed. Thereafter, in a very thorough report at docket 33, Magistrate Judge Aspey recommended that the petition be denied and dismissed with prejudice. Petitioner filed an objection at docket 34.

This court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). When reviewing a magistrate judge’s recommendations in a case such as this one, this court conducts *de novo* review of all recommended conclusions of law, and any recommended findings of fact to which objections have been taken. Recommended findings of fact as to which no objection has been taken are reviewed for clear error.

Having applied the standards of review noted above, this court finds that the recommended findings of fact and conclusions of law are correct in all material respects. There is nothing substantive in petitioner’s objections which is not adequately addressed in the report from the magistrate judge at docket 33. This court adopts Magistrate Judge Aspey’s recommended findings and conclusions at docket 33. Based thereon, the petition at docket 1 is **DENIED**. The Clerk will please enter judgment dismissing the petition with prejudice.

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 petitioner has not made a substantial showing of the denial of a constitutional right. 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).