

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

JIM McDONALD,

Petitioner,

vs.

LARRY NORRIS, Director,
Arkansas Department of Correction,

Respondent.

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No. 5:07CV00162 SWW/BD

ORDER

Petitioner filed a Notice of Appeal and Motion for Certificate of Appealability. Pursuant to Fed.R.App.P. 22(b)(1), the Court declines to issue a certificate of appealability.

A petitioner has no automatic right to appeal a district court's denial or dismissal of his petition pursuant to 28 U.S.C. § 2254. See 28 U.S.C. § 2253(c)(1)(A). "If an applicant files a notice of appeal, the district judge who rendered the judgment must either issue a certificate of appealability or state why a certificate should not issue." Fed.R.App.P. 22(b)(1). A certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). "A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

The Court finds petitioner has failed to make such a showing. Accordingly, the Court declines to issue a certificate of appealability.

DATED this 28th day of August, 2009.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE