

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

MICHAEL ANTHONY KOURI,

PETITIONER

v.

Case No. 5:18-cv-00255-KGB-JTK

**DEXTER PAYNE, Director
Arkansas Department of Correction**

RESPONDENT

ORDER

The Court has received Proposed Findings and Recommendations submitted by United States Magistrate Judge Jerome T. Kearney (Dkt. No. 17). Petitioner Michael Anthony Kouri filed objections to the Proposed Findings and Recommendations (Dkt. No. 18). After careful review of the Proposed Findings and Recommendations and Mr. Kouri's objections, as well as a *de novo* review of the record, the Court adopts the Proposed Findings and Recommendations as its findings in all respects (Dkt. No. 17). Also pending before the Court is Mr. Kouri's motion for status of case (Dkt. No. 19), which the Court grants.

The Court writes separately to address Mr. Kouri's objections. Judge Kearney recommends that Mr. Kouri's claim of ineffective assistance of trial counsel for failure to excuse juror Delreal for cause be dismissed (Dkt. No. 17, at 9-10). Judge Kearney reasons that the Arkansas Court of Appeals properly applied the *Strickland* test in finding that Mr. Kouri did not meet his burden of proving that the juror was biased against him (*Id.*). In his objection, Mr. Kouri restates claims already raised in his amended petition for writ of habeas corpus (Dkt. No. 18, at 1-3). This Court reviewed *de novo* the record in this matter to evaluate Judge Kearney's recommendation and Mr. Kouri's objections, including but not limited to the trial transcript detailing questioning of juror Delreal and others during jury selection (Dkt. No. 8, at 226-32). Having done so, this Court agrees with Judge Kearney that the Arkansas Court of Appeals properly

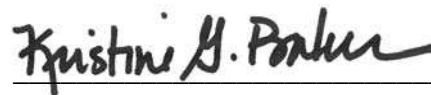
applied the *Strickland* test, and therefore, this Court adopts Judge Kearney's recommendation (Dkt. No. 17, at 10).

Mr. Kouri also objects to Judge Kearney's recommendation that this Court deny a certificate of appealability (Dkt. No. 18, at 3). Mr. Kouri claims that he made a substantial showing of the denial of his Sixth Amendment right and that jurists of reason would find it debatable whether juror Delreal's denial of the presumption of innocence could constitute bias and, if so, whether her purportedly admitted bias was reversible error (*Id.*, at 3-4). However, after careful consideration, this Court agrees with Judge Kearney that Mr. Kouri has not provided a basis for issuing a certificate of appealability (Dkt. No. 17, at 11). Accordingly, a certificate of appealability is denied.

It is therefore ordered that:

1. Mr. Kouri's amended petition for writ of habeas corpus is denied and dismissed with prejudice (Dkt. No. 8).
2. A certificate of appealability is denied.
3. Mr. Kouri's motion for status of case is granted (Dkt. No. 19).

It is so ordered this 10th day of September, 2020.



Kristine G. Baker
United States District Judge