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Accordingly, IT IS ORDERED THAT:

1. Judgment shall be entered dismissing the action with prejudice.
2. The Clerk shall serve copies of this Order and the Judgment herein on the parties.
3. Petitioner's Application for Certificate of Appealability, is denied.

9/20/11

DATED: \_\_\_\_\_



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HON. DALE S. FISCHER  
UNITED STATES DISTRICT JUDGE