

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JERRY NEIL ALFRED,

Petitioner,

v.

Case No: 2:16-cv-864-FtM-38MRM

FLORIDA SUPREME COURT,

Respondent.

OPINION AND ORDER¹

This matter comes before the Court on Petitioner's Notice of Appeal ([Doc. #17](#)) filed on August 9, 2017. A prisoner seeking to appeal a district court's final order denying his petition for writ of habeas corpus has no absolute entitlement to appeal but must obtain a certificate of appealability ("COA"). [28 U.S.C. § 2253\(c\)\(1\)](#); [Harbison v. Bell](#), [556 U.S. 180, 184 \(2009\)](#). "A [COA] may issue...only if the applicant has made a substantial showing of the denial of a constitutional right." [28 U.S.C. § 2253\(c\)\(2\)](#). To make such a showing, Petitioner "must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong," [Tennard v. Dretke](#), [542 U.S. 274, 282 \(2004\)](#) or, that "the issues presented were adequate to deserve encouragement to proceed further", [Miller-El v. Cockrell](#), [537 U.S. 322, 335-36](#)

¹ Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

(2003)(citations omitted). Petitioner has not made the requisite showing in these circumstances. Finally, because Petitioner is not entitled to a certificate of appealability, he is not entitled to appeal in forma pauperis.

Accordingly, it is now

ORDERED:

Petitioner is not entitled to a certificate of appealability and is **DENIED** leave to appeal In Forma Pauperis.

DONE and **ORDERED** in Fort Myers, Florida this 21st day of September, 2017.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies:
Jerry Alfred
All Counsel of Record
SA: FtMP-2