

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

PETER JOSEPH KLAUER,
Petitioner,

vs.

Case No. 3:07cv541/LAC/EMT

WALTER A. McNEIL,
Respondent.

ORDER

This cause is before the court on Petitioner's notice of appeal and motion for certificate of appealability (Docs. 52, 53). Unless a certificate of appealability is issued, Petitioner may not take an appeal from the final order denying § 2254 relief. *See* 28 U.S.C. § 2253(c)(1)(A); Fed. R. App. P. 22(b)(1). Such a certificate 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).

Upon review of the file, the court concludes that because Petitioner has not made a substantial showing of the denial of a constitutional right, and for the reasons set forth in the court's July 31, 2009 order (Doc. 48) adopting and incorporating the Magistrate Judge's Report and Recommendation filed on June 24, 2009 (Doc. 45), a certificate of appealability shall be denied.

Accordingly, it is **ORDERED**:

Petitioner's motion for certificate of appealability (Doc. 53) and notice of appeal (Doc. 52) are **DENIED**, and no certificate shall issue.

DONE AND ORDERED this 2nd day of September, 2009.

s/L.A. Collier

LACEY A. COLLIER

SENIOR UNITED STATES DISTRICT JUDGE