

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

RONNEY STUCKEY,

Petitioner,

v.

CASE NO. 4:14cv45-RH/CAS

JULIE L. JONES,

Respondent.

_____ /

**ORDER DENYING THE PETITION AND
GRANTING A CERTIFICATE OF APPEALABILITY**

This petition for a writ of habeas corpus under 28 U.S.C. § 2254 is before the court on the magistrate judge's report and recommendation, ECF No. 21, and the objections, ECF No. 26. I have reviewed de novo the issues raised by the objections. The report and recommendation is correct and is adopted as the court's opinion, except on the issue of a certificate of appealability.

Rule 11 of the Rules Governing § 2254 Cases requires a district court to "issue or deny a certificate of appealability when it enters a final order adverse to the applicant." Under 28 U.S.C. § 2253(c)(2), a certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a

constitutional right.” See *Miller-El v. Cockrell*, 537 U.S. 322, 335-38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983); see also *Williams v. Taylor*, 529 U.S. 362, 402-13 (2000) (setting out the standards applicable to a § 2254 petition on the merits). As the Court said in *Slack*:

To obtain a COA under § 2253(c), a habeas prisoner must make a substantial showing of the denial of a constitutional right, a demonstration that, under *Barefoot*, includes showing that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were “ ‘adequate to deserve encouragement to proceed further.’ ”

529 U.S. at 483-84 (quoting *Barefoot*, 463 U.S. at 893 n.4). Further, in order to obtain a certificate of appealability when dismissal is based on procedural grounds, a petitioner must show, “at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Id.* at 484.

The petitioner has made the required showing for a single issue. This order grants a certificate on that issue and denies a certificate on all other issues.

For these reasons,

IT IS ORDERED:

1. The report and recommendation is accepted.

2. The clerk must enter judgment stating, “The petition for a writ of habeas corpus is denied with prejudice.”

3. A certificate of appealability is granted only on this issue: whether the petitioner is entitled to relief on the ground that his attorney rendered ineffective assistance by failing to accurately advise the petitioner of the time he would serve if he accepted the state’s plea offer of a 12-year sentence. A certificate is denied on all other issues.

4. The clerk must close the file.

SO ORDERED on December 27, 2016.

s/Robert L. Hinkle
United States District Judge