

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

MARK OTIS BOATWRIGHT,
:
:
Petitioner :
:
VS. :
:
ANTHONY WASHINGTON, Warden, :
:
Respondent :
:
:
_____ :

CIVIL ACTION NO.: 5:07-CV-338 (MTT)

ORDER

Petitioner **MARK OTIS BOARWRIGHT** has filed a “Notice of Out-of-Time Appeal” (R. at 50) from the Court’s Order, which adopted the United States Magistrate Judge’s Recommendation that Petitioner’s habeas corpus petition be denied. (R. at 45, 48).¹

The Eleventh Circuit Court of Appeals has mandated that the Court construe Petitioner’s notice of appeal as an application for a certificate of appealability (“COA”) pursuant to 28 U.S.C. § 2253(c). **Edwards v. United States**, 114 F.3d 1083 (11th Cir. 1997). Under § 2253(c), a COA may issue only if the applicant has made a substantial showing of the denial of a constitutional right. For the reasons stated in the United States Magistrate Judge’s Recommendation and this Court’s Order adopting the same, the Court finds that Petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Accordingly, the application for a COA is **DENIED.**

¹The Court notes that the Order adopting the United States Magistrate Court’s Recommendation was entered on September 30, 2010 and that Judgment was entered denying the habeas corpus petition on this same date. (R. at 48, 49). Petitioner did not file his notice of appeal until March 9, 2011. (R. at 50).

SO ORDERED, this 25th day of April, 2011

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

Inb