

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

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|-----------------------|---|-------------------------------------|
| ROBERT CARSWELL, | : | |
| | : | |
| Petitioner | : | |
| | : | |
| VS. | : | |
| | : | CIVIL ACTION NO.: 5:09-CV-287 (CAR) |
| TERRY OBRIEN, Warden, | : | |
| | : | |
| Respondent | : | |
| _____ | : | |

ORDER

Before the Court is petitioner **ROBERT CARSWELL’S** notice of appeal (R. at 11) from the Court’s Order that denied his petition for writ of habeas corpus and motion for appointment of counsel (R. at 7). 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 September 11, 2009 Order, 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**.¹

SO ORDERED, this 21st day of December, 2009.

S/ C. Ashley Royal
 C. ASHLEY ROYAL
 UNITED STATES DISTRICT COURT

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¹Petitioner’s motion to proceed *in forma pauperis* on appeal is denied as moot.