

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

EDWARD LEE HAM, JR.,

Petitioner,

v.

BRIAN OWENS, Commissioner,

Respondent.

Civil Action 7:10-CV-40 (HL)

ORDER

On February 9, 2011, the Court entered an order accepting a Recommendation to dismiss Petitioner's § 2254 habeas petition as untimely. What the Court neglected to do in that order was issue or deny a certificate of appealability as required by § 2254 Rule 11(a).

Under U.S.C.A. § 2253(c)(2), a certificate of appealability may issue only if the applicant makes "a substantial showing of the denial of a constitutional right." This requires a petitioner to demonstrate that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." See Slack v. McDaniel, 529 U.S. 473, 478, 120 S.Ct. 1595, 146 L.Ed.2d 542 (2000).

For the reasons stated in Magistrate Judge Thomas Q. Langstaff's recommendation and this Court's order accepting the same, the Court concludes reasonable jurists could not find that a dismissal of petitioner's claims was debatable or wrong. A certificate of appealability is denied.

SO ORDERED, this the 9th day of February, 2011.

s/ Hugh Lawson
HUGH LAWSON, SENIOR JUDGE

mbh