

IN THE UNITED STATES DISTRICT COURT  
 FOR THE SOUTHERN DISTRICT OF GEORGIA  
 AUGUSTA DIVISION

RODRIQUEZ DAVID HAMILTON,	)	
	)	
Petitioner,	)	
	)	
v.	)	CV 111-084
	)	
DONALD BARROW, Warden, and	)	
SAMUEL S. OLENS, Attorney General of	)	
the State of Georgia,	)	
	)	
Respondents.	)	

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**ORDER**  
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After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge’s Report and Recommendation, to which objections have been filed (doc. no. 16).<sup>1</sup> Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, Respondent Olens is **DISMISSED** from this case, and Respondent Barrow’s motion to dismiss is **GRANTED**. (Doc. no. 7.)

Furthermore, a prisoner seeking relief under 28 U.S.C. § 2254 must obtain a certificate of appealability (“COA”) before appealing the denial of his application for a writ of habeas corpus. This Court “must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” Rule 11(a) to the Rules Governing Section 2254

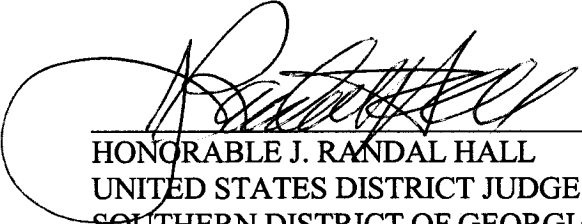
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<sup>1</sup>Petitioner requested, and was granted, an extension of time in which to object to the Report and Recommendation. (Doc. nos. 14, 15.)

Proceedings. This Court should grant a COA only if the prisoner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). For the reasons set forth in the Report and Recommendation, and in consideration of the standards enunciated in Slack v. McDaniel, 529 U.S. 473, 482-84 (2000), Petitioner has failed to make the requisite showing. Accordingly, a COA is **DENIED** in this case.<sup>2</sup> Moreover, because there are no non-frivolous issues to raise on appeal, an appeal would not be taken in good faith. Accordingly, Petitioner is not entitled to appeal *in forma pauperis*. See 28 U.S.C. § 1915(a)(3).

Upon the foregoing, the instant § 2254 petition is **DISMISSED**, and a final judgment shall be **ENTERED** in favor of Respondent Barrow.

SO ORDERED this 10<sup>th</sup> day of February, 2012, at Augusta, Georgia.

  
HONORABLE J. RANDAL HALL  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF GEORGIA

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<sup>2</sup>“If the court denies a certificate, [a party] may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.” Rule 11(a) to the Rules Governing Section 2254 Proceedings.