

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

AUGUSTA DIVISION

HASKELL D. JOHNSON,)
)
 Petitioner,)
)
 v.) CV 114-204
)
 GLENN JOHNSON, Warden,)
)
 Respondent.)

ORDER

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). The Magistrate Judge recommended denial after a thorough review of the record. (Doc. no. 11.)

Petitioner's objections are mainly a reiteration of contentions previously made and rejected by the Magistrate Judge. Two points, however, warrant further comment. First, Petitioner states that he "never served a copy of the Respondent objections." (Doc. no. 16, pp. 1, 13.) Yet, the record patently contradicts this assertion. (E.g., doc. no. 5, p. 4.) Respondent's exhibit filings are properly accompanied by certificates of service showing that Petitioner was served with the answer and exhibits. (Id.) Second, much of the Petitioner's objections claim ineffectiveness of appellate counsel. (Doc. no. 16, pp. 11, 17, 19.) These objections do not merit any additional consideration. As detailed in the Magistrate Judge's

Report and Recommendation, Petitioner's appellate counsel's performance was neither deficient nor prejudicial. (Doc. no. 11, p. 24-29.)

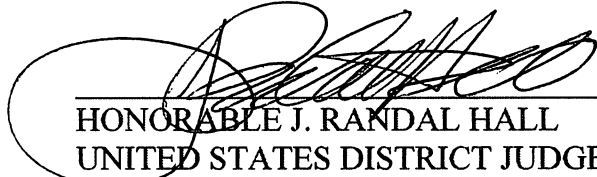
Accordingly, the Court **OVERRULES** Petitioner's objections, **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion, and **DENIES** the instant petition brought pursuant to 28 U.S.C. § 2254.

A prisoner seeking relief under § 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 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, the Court **DENIES** a COA in this case.¹ Moreover, because there are no non-frivolous issues to raise on appeal, an appeal would not be taken in good faith and Petitioner is not entitled to appeal *in forma pauperis*. See 28 U.S.C. § 1915(a)(3).

¹"If the court denies a certificate, the parties 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.

Upon the foregoing, this civil action is **CLOSED**, and a final judgment shall be **ENTERED** in favor of Respondent.

SO ORDERED this 17th day of August, 2015, at Augusta, Georgia.



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