

ORIGINAL

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

FILED
U.S. DISTRICT COURT

2010 SEP 10 P 3:49

DUBLIN DIVISION

CLERK *B. McEntee*

BRUCE TIMOTHY JONES,)	
)	
Petitioner,)	
)	
v.)	CV 310-039
)	
FNU BOOKER, Warden, FNU JACKSON,)	
Warden, and BRIAN OWENS,)	
)	
Respondents.)	

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. Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court.

Further, 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 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. Daniel, 529 U.S. 473, 482-84 (2000), Petitioner has failed to make the requisite

showing. Accordingly, a COA is **DENIED** 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. Accordingly, Petitioner is not entitled to appeal *in forma pauperis*. See 28 U.S.C. § 1915(a)(3).

Upon the foregoing, Petitioner's motion to proceed *in forma pauperis* is deemed **MOOT** (doc. no. 2), this case filed pursuant to 28 U.S.C. § 2254 is **DISMISSED** without prejudice, and this civil action is **CLOSED**.

SO ORDERED this 10th day of September, 2010, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE

¹"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.