

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

DAMON DAVID CALISTE

CIVIL ACTION

VERSUS

NO: 13-5726

BURL CAIN, WARDEN LOUISIANA  
STATE PENITENTIARY

SECTION: R(2)

**ORDER AND REASONS**

Before the Court is Damon Caliste's petition for federal *habeas corpus* relief pursuant to Title 28, United States Code, Section 2254. The Magistrate Judge has recommended that Caliste's petition be dismissed with prejudice. The Court, having reviewed *de novo* the petition, the record, the applicable law, the Magistrate's Report and Recommendation ("R&R"), and the petitioner's objections thereto, hereby approves the R&R and adopts it as its opinion.

In his objections, Caliste does not challenge the precedent cited by the Magistrate Judge or raise any arguments disputing the Magistrate Judge's analysis. Instead, he simply reiterates allegations set forth in his petition.<sup>1</sup> The Magistrate Judge adequately addressed each of these allegations, and the Court need not reiterate his analysis.<sup>2</sup>

Rule 11(a) of the Rules Governing Section 2254 Proceedings provides that "[t]he district court must issue or deny a

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<sup>1</sup> R. Doc. 1.

<sup>2</sup> See R. Doc. 12.

certificate of appealability when it enters a final order adverse to the applicant." A court may only issue a certificate of appealability if the petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The "controlling standard" for a certificate of appealability requires the petitioner to show "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented [are] adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)) (quotation marks removed).

The Court concludes that Caliste's petition fails to satisfy this standard. Accordingly, the Court will not issue a certificate of appealability.

For the foregoing reasons, the Court DENIES Caliste's petition for *habeas corpus* and DENIES a certificate of appealability.

New Orleans, Louisiana, this 25th day of August, 2014.

A handwritten signature in black ink, reading "Sarah S. Vance", is written over a horizontal line.

SARAH S. VANCE  
UNITED STATES DISTRICT JUDGE