

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KYLE D. LaMAY,

Petitioner,

Case No. 1:10cv692

v.

Hon. Robert J. Jonker

CARL HOWES,

Respondent.

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**ORDER**  
**APPROVING REPORT AND RECOMMENDATION**

The court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties on September 1, 2010. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C).

**THEREFORE, IT IS ORDERED** that the Report and Recommendation of the Magistrate Judge, filed September 1, 2010, is approved and adopted as the opinion of the court.

**IT IS FURTHER ORDERED** that the habeas corpus petition is **DENIED**.

**IT IS FURTHER ORDERED** that a certificate of appealability from the judgment issued this date is **DENIED** because a reasonable jurist could not conclude either that the District Court erred in dismissing the petition for failure to exhaust or that the petitioner should be allowed to proceed further. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

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/s/ Robert J. Jonker  
ROBERT J. JONKER  
UNITED STATES DISTRICT JUDGE

Dated: October 20, 2010