

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DARREN DON SHANNON,

Petitioner,

v.

ORDER

Civil File No. 09-3422 (MJD/AJB)

JOAN FABIAN,

Commissioner of Corrections,

Respondent.

Darren Don Shannon, *pro se*.

Krista Fink, Counsel for Respondent.

This matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Arthur J. Boylan dated March 8, 2010 [Docket No. 8]. Plaintiff has filed an objection to the Report and Recommendation [Docket No. 9]. Pursuant to statute, the Court has conducted a de novo review of the record. See 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court **ADOPTS** the Report and Recommendation.

An applicant for a writ of habeas corpus may not take an appeal unless a judge issues a Certificate of Appealability (“COA”) under 28 U.S.C. § 2253(c).

The Court will grant a COA only where the petitioner has made a substantial showing of the denial of a constitutional right. See id.; Tiedeman v. Benson, 122 F.3d 518, 523 (8th Cir.1997). To meet this burden, the petitioner must show “that the issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings.” Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994) (citation omitted). Based on Eighth Circuit precedent, this Court finds it unlikely that Petitioner’s claims would be decided differently on appeal. The facts in this case do not present any novel or noteworthy issue that warrants appellate review. The Court therefore declines to grant a COA.

Accordingly, based upon the files, records, and proceedings herein, **IT IS**

HEREBY ORDERED that:

1. The Court **ADOPTS** the Magistrate Judge’s Report and Recommendation dated March 8, 2010 [Docket No. 8].
2. Darren Don Shannon’s petition for writ of habeas corpus under 28 U.S.C. § 2254 is **DISMISSED** with prejudice [Docket No. 1].
3. The Court **DECLINES** to grant Petitioner a Certificate of Appealability under 28 U.S.C. § 2253(c)

Date: May 17, 2010

s/ Michael J. Davis _____
Michael J. Davis
Chief Judge
United States District Court