

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Frank Edward Johnson,

Civil No. 10-269 (DWF/JJG)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

State of Minnesota and Minnesota
Department of Corrections,

Respondents.

Frank Edward Johnson, *Pro Se*, Petitioner.

Matthew Frank, Assistant Attorney General, Minnesota Attorney General Office, counsel
for Respondents.

This matter is before the Court upon Petitioner Frank Edward Johnson's ("Petitioner") objections to Magistrate Judge Jeanne J. Graham's Report and Recommendation dated February 4, 2010, recommending that: (1) Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be denied; (2) Petitioner's application for leave to proceed *in forma pauperis* be denied; and (3) this action be summarily dismissed without prejudice for lack of jurisdiction. Respondents filed a letter on March 2, 2010 (Doc. No. 5) stating that they concurred with the Report and Recommendation and would not be filing a response to Petitioner's objections.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and

precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Petitioner's objections.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Petitioner Frank Edward Johnson's objections (Doc. No. [4]) to Magistrate Judge Jeanne J. Graham's Report and Recommendation dated February 4, 2010, are **DENIED**.

2. Magistrate Judge Jeanne J. Graham's Report and Recommendation dated February 4, 2010 (Doc. No. [3]), is **ADOPTED**.

3. Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, (Doc. No. [1]), is **DENIED**.

4. Petitioner's application for leave to proceed *in forma pauperis*, (Doc. No. [2]), is **DENIED**.

5. This action is summarily **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 30, 2010

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge