UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

JOE H. BANDY, III,

Civil No. 13-0204 (JRT/LIB)

Petitioner,

v.

ORDER

STATE OF MINNESOTA,

Respondent.

Joe H. Bandy, III, #125257, MCF- Rush City, 7600 525th Street, Rush City, MN 55069, pro se petitioner.

Matthew Frank, **OFFICE OF THE MINNESOTA ATTORNEY GENERAL**, 445 Minnesota Street, Suite 1800, St. Paul, MN 55101, for respondent.

The above-entitled matter comes before the Court upon the Report and

Recommendation of United States Magistrate Judge Leo I. Brisbois dated February 12, 2013.

Based upon the Report and Recommendation of the Magistrate Judge [Docket No. 6], and all

of the files, records and proceedings herein, and no objections having been filed to said

Report and Recommendation,

IT IS HEREBY ORDERED that:

1. Petitioner's habeas corpus petition [Docket No. 1] is **DENIED**;

2. This action is **DISMISSED WITHOUT PREJUDICE**; and

3. Petitioner is **NOT** granted a Certificate of Appealability.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 22, 2013 at Minneapolis, Minnesota

<u>s/ John R. Tunheim</u> JOHN R. TUNHEIM United States District Judge