

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Robert Patrick Butters,

Civil No. 16-3462 (DWF/DTS)

Petitioner,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Chris Pawelk,

Respondent.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge David T. Schultz dated October 17, 2017. (Doc. No. 10.) No objections have been filed to that Report and Recommendation in the time period permitted. The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. In the Report and Recommendation, the Magistrate Judge recommended that Petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 be denied and that this matter be dismissed with prejudice.

In addition, a § 2254 petitioner cannot appeal an adverse ruling on his petition unless he is granted a Certificate of Appealability ("COA"). 28 U.S.C. § 2253(c)(1). A COA may issue only if the petitioner has made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Here, the Court concludes that Petitioner has not made such a showing.

Therefore, based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

**ORDER**

1. Magistrate Judge David T. Schultz's October 17, 2017 Report and Recommendation (Doc. No. [10]) is **ADOPTED**.
2. Robert Butters's Petition for a Writ of Habeas Corpus (Doc. No. [1]) is **DENIED**.
3. This action is **DISMISSED WITH PREJUDICE**.
4. No COA is granted in this matter.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: November 17, 2017

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