

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

<b>LOI QUOC TRAN, #L7456</b>	§	
	§	
v.	§	<b>CAUSE NO. 1:09CV812 LG-RHW</b>
	§	
<b>PRESTON GOFF, JR.</b>	§	<b>RESPONDENT</b>

**ORDER ADOPTING REPORT AND RECOMMENDATION  
AND DISMISSING PETITION FOR WRIT OF HABEAS CORPUS**

This cause comes before the Court on the Proposed Findings of Fact and Recommendation [6] of United States Magistrate Judge Robert H. Walker entered in this cause on September 28, 2011. Magistrate Judge Walker reviewed Petitioner's Application for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, the Respondent's Answer, and the state court record. Conducting a thorough analysis of the issues raised, the Magistrate Judge determined that the grounds asserted in the Application did not entitle Petitioner to federal habeas corpus relief, and therefore the Application should be denied and the petition dismissed.

Petitioner requested and was granted a 30-day extension of time within which to file his written objections to the Magistrate's findings. *See* Text Only Order, Oct. 13, 2011. His objections were due by November 15, 2011. As of this date, Petitioner has not filed any objection to the Magistrate Judge's findings or conclusions. Under these circumstances, the Court need only review the Proposed Findings of Fact and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). After having reviewed the Proposed Findings of Fact and Recommendation, the Court finds it

neither clearly erroneous nor contrary to law. The Magistrate Judge properly found that Petitioner's grounds for federal habeas relief have no merit. The Proposed Findings of Fact and Recommendation will therefore be adopted as the findings and conclusions of this Court.

#### CERTIFICATE OF APPEALABILITY

The Court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. Rule 11(a) of the Rules Governing § 2254 Proceedings. A certificate of appealability may issue under 28 U.S.C. § 2253 "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *Butler v. Byrne*, 845 F.2d 501, 505 (5th Cir. 1988). "A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

Upon review and consideration of the record in this case, the Court concludes that the Petitioner has not made a showing that reasonable jurists would question the Court's rulings. A certificate of appealability should not issue for the reasons stated in the Magistrate Judge's Proposed Findings of Fact and Recommendation.

**IT IS THEREFORE ORDERED AND ADJUDGED** that the Proposed Findings of Fact and Recommendation [6] of United States Magistrate Judge Robert H. Walker entered in this cause on September 28, 2011, should be, and the same hereby is, adopted as the findings of this Court.

**IT IS FURTHER ORDERED AND ADJUDGED** that Petitioner's Application

for habeas corpus relief pursuant to 28 U.S.C. § 2254 is **DISMISSED**.

**IT IS FURTHER ORDERED AND ADJUDGED** that a Certificate of Appealability is **DENIED**.

**SO ORDERED AND ADJUDGED** this the 19<sup>th</sup> day of November, 2011.

*s/ Louis Guirola, Jr.*

LOUIS GUIROLA, JR.  
CHIEF U.S. DISTRICT JUDGE