

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

JAMES M. FERGUSON	§	PETITIONER
v.	§	CIVIL NO.: 1:14cv204-HSO-RHW
MISSISSIPPI DEPARTMENT OF CORRECTION, CHRISTOPHER EPPS, and JIM HOOD	§ § § § §	RESPONDENTS

CERTIFICATE OF APPEALABILITY

A final order adverse to the applicant having been filed in the captioned case, in which the detention complained of arises out of process issued by a state court or a proceeding pursuant to 28 U.S.C. § 2254, or the detention arises out of a judgment and conviction in federal court which is being challenged pursuant to 28 U.S.C. § 2255, the Court, considering the record in this case and the requirements of 28 U.S.C. § 2253, Rule 22(b) of the Federal Rules of Appellate Procedure, and Rule 11 of the Rules Governing Section 2254 and 2255 Cases in the United States District Courts, hereby finds that:

- X A Certificate of Appealability should not issue. The applicant has failed to make a substantial showing of the denial of a constitutional right.
- A Certificate of Appealability should issue for the following specific issue(s):

REASONS:

Petitioner has not made a “substantial showing of the denial of a constitutional right.” *See* 28 U.S.C. § 2253(c)(2); *Elizalde v. Dretke*, 362 F.3d 323, 328 (5th Cir. 2004). Petitioner has not exhausted the state law remedies available to him under Mississippi law as required under 28 U.S.C. § 2254(b)(1). *See* Memorandum Opinion and Order Overruling Objection, Adopting Proposed Findings of Fact and Recommendations, and Dismissing Petitioner for Writ of Habeas Corpus Without Prejudice.

DATE: June 16, 2015.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE