

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

KEVIN J. BUTLER,)
)
Petitioner,)
)
v.)
)
IAN WALLACE and CHRIS KOSTER,)
Attorney General for the State of Missouri,)
)
Respondents.)

No. 4:09-CV-1950 CAS

ORDER

This matter is before the Court on state prisoner Kevin J. Butler’s action pursuant to 28 U.S.C. § 2254. This case was referred to United States Magistrate Judge Thomas C. Mummert, III for report and recommendation on all dispositive matters and for final disposition on all non-dispositive matters, pursuant to 28 U.S.C. § 636(b).

On February 1, 2013, Judge Mummert filed an Order and Report and Recommendation of United States Magistrate Judge which denied petitioner’s motion for evidentiary hearing, ordered respondents’ exhibits A, C, D, and F be maintained under seal, substituted Ian Wallace for Troy Steele as a respondent, added Chris Koster as a respondent, and recommended that petitioner’s petition for writ of habeas corpus be denied.

Petitioner sought and received an extension of time to file objections to the Order and Report and Recommendation. Petitioner filed timely objections, asserting that the evidence warranted an instruction on self-defense, and trial counsel was ineffective for not arguing self-defense and not submitting an instruction on self-defense. The Court has carefully reviewed petitioner’s objections and the entire record of this matter. Following de novo review, the Court concurs in the

recommendation of the Magistrate Judge as contained in the well-reasoned and thorough Order and Report and Recommendation. Petitioner's objections are overruled.


Accordingly,

IT IS HEREBY ORDERED that the Order and Report and Recommendation of United States Magistrate Judge is **sustained, adopted** and **incorporated** herein. [Doc. 19]

IT IS FURTHER ORDERED that Kevin J. Butler's Petition for Writ of Habeas Corpus pursuant to Title 28 U.S.C. § 2254 is **DENIED**. [Doc. 1]

IT IS FURTHER ORDERED that this matter is **DISMISSED**, with no further action to take place herein.

An appropriate judgment will accompany this order.



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 5th day of March, 2013.