

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JEWELL D. SAUNDERS,)
)
 Petitioner,¹)
)
 v.) Case No. 4:12 CV 2225 RWS
)
 TERRY RUSSELL,)
)
 Respondent.²)

MEMORANDUM AND ORDER

This matter is before me on the petition for writ of habeas corpus filed by Petitioner Jewell D. Saunders. I referred this matter to United States Magistrate Judge John M. Bodenhausen for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On October 30, 2015, the Magistrate Judge filed his recommendation that Saunders' habeas petition should be denied.

Objections to the Magistrate Judge's Report and Recommendation were due to be filed by November 14, 2015. As of the date of this order, Saunders has not filed any objection to the Report and Recommendation. After careful consideration, I will adopt and sustain the thorough reasoning of the Magistrate Judge's report and I will deny Saunders' habeas petition for the reasons stated in the Report and Recommendation.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal

¹ The Missouri Department of Corrections shows that Petitioner's name is Jewell Saunders. (Resp. Exh. 1 at 107) However, some of the pleadings in state court refer to Petitioner as Jewell Sanders. This Memorandum and Order will refer to Petitioner as "Saunders."

² Petitioner is presently incarcerated at the Eastern Reception Diagnostic and Correctional Center ("ERDCC") in Bonne Terre, Missouri. Inasmuch as Terry Russell is superintendent of ERDCC and thus is Petitioner's custodian, he should be substituted for Troy Steele as proper party respondent. Rule 2(a), Rules Governing Section 2254 Cases in United States District Courts.

constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because petitioner has not made such a showing in this case, I will not issue a certificate of appealability.

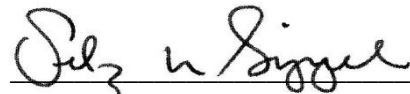
Accordingly,

IT IS HEREBY ORDERED that Judge Bodenhausens' Report and Recommendation filed on October 30, 2015 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner Jewell D. Saunders' Petition for Writ of Habeas Corpus is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate Judgment in accordance with this Memorandum and Order is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 9th day of December, 2015.