

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

STEPHEN D. HORNBUCKLE, SR.,)
)
 Petitioner,)
)
 v.) Case No. 4:14 CV 1048 RWS
)
 IAN WALLACE,)
)
 Respondent.)

MEMORANDUM AND ORDER

This matter is before me on the petition for writ of habeas corpus filed by Petitioner Stephen Hornbuckle. I referred this matter to United States Magistrate Judge Shirley Padmore Mensah for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On April 21, 2017, Judge Mensah filed her recommendation that Hornbuckle's habeas petition should be denied.

Objections to Judge Mensah's Report and Recommendation were due to be filed by May 5, 2017. As of the date of this order, Hornbuckle has not filed any objection to the Report and Recommendation. After careful consideration, I will adopt and sustain the thorough reasoning of Judge Mensah's report and I will deny Hornbuckle's habeas petition for the reasons stated in the Report and Recommendation dated April 21, 2017.

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 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.

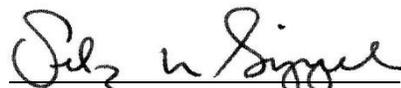
Accordingly,

IT IS HEREBY ORDERED that Judge Mensah's Report and Recommendation filed on April 21, 2017 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner Stephen D. Hornbuckle, Sr.'s 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 5th day of September, 2017.