

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Byron Barber

v.

Case No. 17-cv-201-SM

State of New Hampshire

O R D E R

No objection having been filed, I herewith approve the Report and Recommendation of Magistrate Judge Andrea K. Johnstone dated October 16, 2017, for the reasons set forth therein. Mr. Barber's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 is dismissed without prejudice.

"'[O]nly those issues fairly raised by the objections to the magistrate's report are subject to review in the district court and those not preserved by such objection are precluded on appeal.'" School Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010) (quoting Keating v. Secretary of Health & Human Servs., 848 F.2d 271, 275 (1st Cir. 1988)); see also United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986) (after proper notice, failure to file a specific objection to magistrate's report will waive the right to appeal).

Additionally, finding that the petitioner has failed to make a substantial showing of the denial of a constitutional right, the court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2); Rule 11, Rules

Governing Habeas Corpus Cases Under Section 2254; First Cir. LR
22.0.

The Clerk of Court shall enter judgment in accordance with
this order and close the case.



Steven J. McAuliffe
United States Magistrate Judge

Date: November 28, 2017

CC: Byron Barber, pro se