

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

MITCHELL JOSEPH HARB, JR.,)	
)	
Petitioner,)	
)	
v.)	1:09CV766
)	
ALVIN W. KELLER, JR.,)	
)	
Respondent.)	

J U D G M E N T

Auld, Magistrate Judge

For the reasons set out in a Memorandum Opinion and Order entered contemporaneously with this Judgment,

IT IS ORDERED AND ADJUDGED that Respondent's Motion to Dismiss on Statute of Limitation Grounds (Docket Entry 4) is **GRANTED**, that the Petition under § 2254 (Docket Entry 1) is **DENIED**, that Petitioner's motion for reconsideration of his request for appointed counsel (Docket Entry 14) is **DENIED AS MOOT**, and that this action be, and the same hereby is, **DISMISSED**.

IT IS FURTHER ORDERED AND ADJUDGED that, finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is denied.

/s/ L. Patrick Auld
L. Patrick Auld
United States Magistrate Judge

September 28, 2010