

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11-cv-347-RJC**

ERIC LAMAR TOLBERT,)
)
 Petitioner,)
)
 v.)
)
 RICHARD NEELY,)
)
 Respondent.)
)
 _____)

ORDER

THIS MATTER comes before the Court following its March 5, 2010 Order dismissing Petitioner Eric Lamar Tolbert’s (“Petitioner”) Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus, (Doc. No. 1). (Doc. No. 4).

Under Rule 11(a) of the Rules Governing Section 2254 Cases, this Court “must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” 28 U.S.C.A. foll. § 2254, Rule 11(a).

IT IS, THEREFORE, ORDERED that:

1. This Court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2); Miller–El v. Cockrell, 537 U.S. 322, 338 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 473, 484 (2000) (when relief is denied on procedural grounds, a petitioner must establish both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right).

Signed: March 5, 2012

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

