

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Paul Elliot Buresh,)	
)	
Petitioner,)	ORDER ADOPTING REPORT AND RECOMMENDATION
)	
vs.)	
)	Case No. 3:17-cv-152
Chad Pringle, Warden,)	
)	
Respondent.)	

The Petitioner, Paul Elliot Buresh, filed a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody on July 21, 2017. See Docket No. 1. On October 16, 2017, the Respondent filed a motion to dismiss the petition. See Docket No. 8. Buresh filed a response on February 5, 2018. See Docket No. 18.

Magistrate Judge Alice R. Senechal reviewed the petition and the motion to dismiss and issued a Report and Recommendation on February 21, 2018. See Docket No. 21. Judge Senechal recommended Buresh's petition be dismissed. Buresh was given until March 7, 2018, to file an objection to the Report and Recommendation and show why his petition should not be dismissed. Buresh filed an objection on March 7, 2018. See Doc. No. 22.

The Court has carefully reviewed the entire record, the objection filed by Buresh, and the relevant law and finds the Report and Recommendation to be persuasive. The Court agrees with Judge Senechal that Buresh's claims should be dismissed. Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 21) in its entirety, and **ORDERS** as follows:

- 1) The Court **GRANTS** the Respondent's Motion to Dismiss (Docket No. 8) and **DENIES** Buresh's Petition under 28 U.S.C. § 2254 for a Writ of Habeas Corpus by a Person in State Custody (Docket No. 2).
- 2) The Court certifies that an appeal from the denial of this petition may not be taken in forma pauperis because such a appeal would be frivolous and cannot be taken in good faith.

- 3) The Court finds dismissal of the petition is not debatable, reasonably subject to a different outcome on appeal, or otherwise deserving of further proceedings. Therefore, a certificate of appealability will not be issued by this Court. Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983). If the Petitioner desires further review of his motion he may request issuance of a certificate of appealability by a circuit judge of the Eighth Circuit Court of Appeals.

IT IS SO ORDERED.

Dated this 12th day of March, 2018.

/s/ Daniel L. Hovland
Daniel L. Hovland, Chief Judge
United States District Court