

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

<b>VERDELL MAYS,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CIV-16-1289-R</b>
	)	
<b>THOMAS SCARANTINO, Warden,</b>	)	
	)	
<b>Respondent.</b>	)	

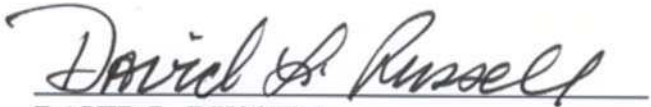
**ORDER**

Before the Court is the Report and Recommendation of United States Magistrate Judge Gary M. Purcell entered November 14, 2016. Doc. No. 5. Petitioner was advised that unless he paid the full filing fee on or before December 5, 2016, this matter would be dismissed without prejudice. No objection to the Report and Recommendation has been filed nor has an extension of time in which to object been sought or granted or the filing fee paid. Therefore, the Report and Recommendation of the Magistrate Judge is ADOPTED in its entirety and this matter is DISMISSED WITHOUT PREJUDICE.

Further, pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, the undersigned denies Petitioner a Certificate of Appealability. Where a habeas petition is denied on procedural grounds, Petitioner is entitled to a COA only if he/she demonstrates that “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Stack v. McDaniel*, 529 U.S. 473, 484, 120 S.Ct. 1595, 146 L.Ed.2d 542 (2000).

When a habeas petition is denied on the merits, Petitioner is entitled to a COA only if he/she demonstrates “that jurists of reason could disagree with the district court’s resolution of his/her constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327, 123 S.Ct. 1029, 154 L.Ed.2d 931, 944 (2003) (*citing Slack v. McDaniel, supra*). Petitioner has not made either showing and is therefore not entitled to a COA.

IT IS SO ORDERED this 8<sup>th</sup> day of December, 2016.

  
DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE