

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

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| <p>SUSAN MARIE SCHRADER, Petitioner, vs. UNITED STATES OF AMERICA, Respondent.</p> | <p>5:16-CV-05110-KES ORDER ADOPTING REPORT AND RECOMMENDATION AND GRANTING MOTION TO DISMISS</p> |
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Petitioner, Susan Marie Schrader, filed a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody. Respondent moved to dismiss the motion. The court referred the motion to Magistrate Judge Veronica Duffy. On September 27, 2017, Magistrate Judge Duffy submitted a report and recommended that Schrader's petition be dismissed with prejudice and respondent's motion to dismiss be granted. The time for objections has passed and no objections to the report and recommendation have been filed under 28 U.S.C. § 2254, Rule 8(b)(3). The court has considered the case de novo and adopts the report and recommendation in full. Therefore, it is

ORDERED that the magistrate judge's report and recommendation (Docket 29) is adopted in full and respondent's motion to dismiss (Docket 17) is granted.

IT IS FURTHER ORDERED that based upon the reasons set forth herein and under Fed. R. App. P. 22(b), the court finds that petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Therefore, a certificate of appealability is denied.

Dated October 17, 2017.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER

UNITED STATES DISTRICT JUDGE