

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

EDWARD LEROY HARRIS,)	
)	
Petitioner,)	
)	
v.)	No.: 3:97-CV-407
)	
)	
WAYNE CARPENTER, Warden,)	
)	
Respondent.)	

ORDER

For the reasons stated in the memorandum opinion accompanying this order, petitioner Edward Leroy Harris’ (“petitioner”) Rule 59(e) motion is **DENIED** [Doc. 279].

Additionally, the Court has reviewed the case pursuant to 28 U.S.C. § 1915(a)(3) and Rule 24 of the Federal Rules of Appellate Procedure and hereby **CERTIFIES** that any appeal taken from this action would not be taken in good faith, and would be frivolous. Therefore, any application by petitioner for leave to proceed *in forma pauperis* on appeal is **DENIED**. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24.

To grant a Certificate of Appealability (“COA”), the Court must find a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). When a claim has been dismissed on the merits, a substantial showing is made if reasonable jurists could conclude the issues raised are adequate to deserve further review. *See Miller-El v. Cockrell*, 537 U.S. 322, 327, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). When a claim has been dismissed on procedural grounds, a substantial showing is demonstrated when it is shown

reasonable jurists would debate whether a valid claim has been stated and whether the court's procedural ruling is correct.

Upon review of the record, the Court finds that reasonable jurists could not conclude that petitioner's ineffective assistance of counsel claim is adequate to deserve further review. *See* 28 U.S.C. § 2253(c); *see also Slack*, 529 U.S. at 484. Accordingly, if any appeal is taken from this action, such notice will be treated as an application for a certificate of appealability, which is hereby **DENIED**.

IT IS SO ORDERED.

ENTER:

s/ Leon Jordan
United States District Judge