

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ETHELYN RENEIGH BLAKE,

Petitioner,

v.

ANDREA LAZADO,

Respondent.

§
§
§
§
§
§
§
§
§

Civil Action No. **3:23-CV-1493-L-BT**

ORDER

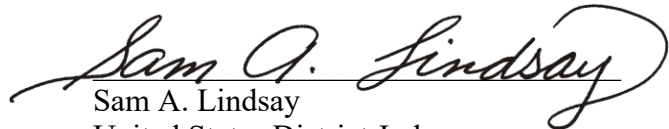
On July 10, 2023, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (Doc. 7) (“Report”) was entered, recommending that the court deny Petitioner’s Motion to Proceed In Forma Pauperis (“Motion”) (Doc. 2). The Report further recommends that the court dismiss without prejudice this prisoner habeas action if Petitioner fails to pay the \$5 filing fee by August 14, 2023, in accordance with 28 U.S.C. § 1915. To date, the court has not received any objections or response to the Report, and the time to do so has expired. Additionally, Petitioner did not pay the \$5 filing fee by August 14, 2023.

Having considered the Motion, file, Report, and record in this case, the court determines that the magistrate judge’s findings and conclusions are correct, and **accepts** them as those of the court. Accordingly, the court **denies** Petitioner’s Motion (Doc. 2), **dismisses without prejudice** this action, pursuant to Federal Rule of Civil Procedure Rule 41(b), as a result of Plaintiff’s failure to comply with a court order and prosecute.

Further, considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court **denies** a certificate of appealability to the extent one is required in this

situation.* The court determines that Petitioner has failed to show: (1) that reasonable jurists would find this court’s “assessment of the constitutional claims debatable or wrong;” or (2) that reasonable jurists would find “it debatable whether the petition states a valid claim of the denial of a constitutional right” and “debatable whether [this court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). In support of this determination, the court **accepts** and **incorporates by reference** the Report filed in this case. In the event that a notice of appeal is filed, Petitioner must pay the \$505 appellate filing fee or submit a motion to proceed *in forma pauperis* on appeal.

It is so ordered this 22nd day of August, 2023.


Sam A. Lindsay
United States District Judge

* Rule 11 of the Rules Governing §§ 2254 and 2255 Cases provides as follows:

(a) Certificate of Appealability. The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. Before entering the final order, the court may direct the parties to submit arguments on whether a certificate should issue. If the court issues a certificate, the court must state the specific issue or issues that satisfy the showing required by 28 U.S.C. § 2253(c)(2). If the court denies a certificate, the parties may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22. A motion to reconsider a denial does not extend the time to appeal.

(b) Time to Appeal. Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order entered under these rules. A timely notice of appeal must be filed even if the district court issues a certificate of appealability.