

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

<b>EEJIPP ALA,</b>	:	
<b>Petitioner,</b>	:	
	:	
<b>v.</b>	:	<b>File No. 1:10-cv-221-jgm</b>
	:	
<b>STATE OF VERMONT,</b>	:	
<b>Respondent.</b>	:	

**ORDER**

The Magistrate Judge's Report and Recommendation was filed April 4, 2011. (Doc. 11.) After de novo review and over objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

Respondent's motion for summary judgment (Doc. 7) is GRANTED. Petitioner's habeas petition filed pursuant to 28 U.S.C. § 2254 (Doc. 1) is DENIED and this case is DISMISSED.

Pursuant to Fed. R. App. P. 22(b), the Court DENIES petitioner a certificate of appealability ("COA") because the petitioner failed to make a substantial showing of a denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). The Court rejects the petition on its merits because the petitioner has failed to demonstrate that reasonable jurists would find the Court's "assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 120 S. Ct. 1595, 1604, 146 L. Ed. 2d 542 (2000).

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 16<sup>th</sup> day of May, 2011.

/s/ J. Garvan Murtha

Honorable J. Garvan Murtha  
Senior United States District Judge