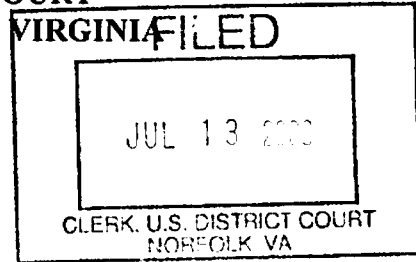


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



ROBERT W. WOOLEN, JR., # 383779,

Petitioner,

v.

ACTION NO. 2:08cv499

GENE M. JOHNSON, Director of the
Virginia Department of Corrections,

Respondent.

FINAL ORDER

Petitioner, a Virginia inmate confined in the Pocohontas Correctional Center, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to petitioner's conviction in the Circuit Court of Fairfax County for possession with intent to manufacture a Schedule I Narcotic Controlled Substance.

The petition was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge's Report and Recommendation filed June 15, 2009, recommends dismissal of the petition without prejudice to allow Petitioner to exhaust state claims. The Court has received no objections to the Report and Recommendation and the time for filing objections has expired.


The Court does hereby accept the findings and recommendations set forth in the Report and Recommendation filed June 15, 2009, and it is therefore ORDERED that Respondent's Motion to Dismiss be GRANTED, and that the petition be DENIED and DISMISSED without prejudice. It

is further ORDERED that judgment be entered in favor of Respondent.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment.

Petitioner has failed to demonstrate “a substantial showing of the denial of a constitutional right,” therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.



/s/
Jerome B. Friedman

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

July **13**, 2009