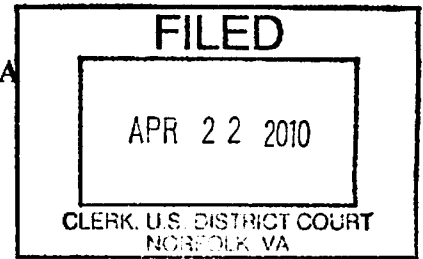


UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



**ERIC SCOTT, #13741-171,**

**Petitioner,**

**v.**

**ACTION NO. 2:09cv47**

**PATRICIA R. STANSBERRY,  
Warden of the Federal Correctional  
Institution at Petersburg, Virginia,**

**Respondent.**

**FINAL ORDER**

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2241. The petition alleges violation of petitioner's constitutional rights pertaining to his sentence and conviction of conspiracy to distribute and possess with intent to distribute cocaine on December 18, 2006, in the U.S. District Court for Greenville, South Carolina, as a result of which he was sentenced to serve sixty months in federal prison.

The matter was referred to a United States Magistrate Judge<sup>1</sup> pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Federal Rules of Civil Procedure for report and recommendation. The Report of the Magistrate Judge was filed March 30, 2010. The Report recommended dismissal of the petition without prejudice because petitioner failed to exhaust the administrative grievance process and there exists no genuine issue as to any material fact with respect to such failure. The Court has received no objections to the Report and Recommendation

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<sup>1</sup> The petition was originally referred by a United States District Judge to United States Magistrate Judge James E. Bradberry. As a result of Judge Bradberry's retirement, the matter was reassigned to United States Magistrate Judge Douglas E. Miller, his duly appointed successor

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 March 30, 2010, and it is therefore ORDERED that respondent's motion for summary judgment is GRANTED, and that the petition is hereby DISMISSED without prejudice, and judgment entered for 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 sixty (60) 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.



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RAYMOND A. JACKSON  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

April 21, 2010