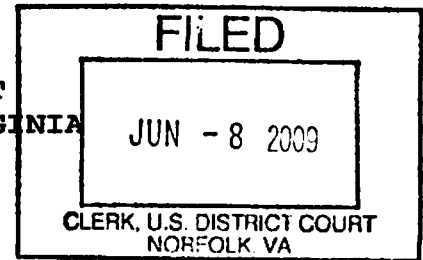


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



CHRIS MURPHY, #380512,

Petitioner,

v.

CIVIL ACTION NO. 2:09cv51

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

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to Petitioner's convictions on June 27, 2007 in the Circuit Court of the City of Hampton, Virginia, of one (1) count of second degree murder and one (1) count of use of a firearm in the commission of a felony, as a result of which he was sentenced to serve a total of forty (40) years in prison for the second degree murder charge and three (3) years in prison for the use of a firearm in the commission of a felony charge, with twenty-five (25) years suspended.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report of

the Magistrate Judge was filed on April 10, 2009 recommending dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the magistrate judge. The Court received no response from either party.

The Court, having reviewed the record, does hereby ADOPT AND APPROVE the findings and recommendations set forth in the report of the United States Magistrate Judge filed on April 10, 2009, and it is, therefore, ORDERED that the petition be DENIED AND DISMISSED as the claims are procedurally defaulted and without merit. 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 (30) 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, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

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

MSD

Mark S. Davis
United States District Judge

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

~~May~~, 2009
June 8, 2009