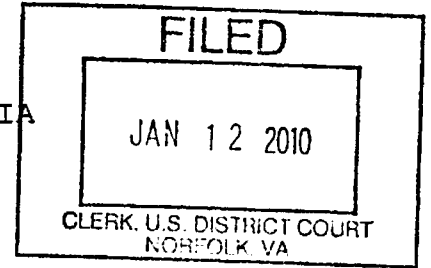


UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



GERALD E. PERRY,

Petitioner,

v.

2:09CV130

COMMISSIONER JAMES S. REINHARD, M.D.,

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 commitment to Central State Hospital, operated by the Department of Behavioral Health and Developmental Services, after having been found not guilty, by reason of insanity, of grand larceny in the Circuit Court for the City of Chesapeake, Virginia, on July 14, 2008. Petitioner remains in custody at Eastern State Hospital.

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) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge filed his report, recommending dismissal of the petition, on December 8, 2009. By copy of the report, each party was advised of their right to file written objections to the

findings and recommendations made by the Magistrate Judge. The Court has received no objections to the report, and the time for filing same has expired.

The Court does hereby accept the findings and recommendations set forth in the report of the United States Magistrate Judge. Therefore, it is ORDERED that the petition be DENIED and DISMISSED on the basis of petitioner's failure to exhaust his available state court remedies, and on the basis that Claims 1, 3, and 4 are noncognizable. It is further ORDERED that judgment be entered in respondent's favor.

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, Walter E. Hoffman 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, 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, 336 (U.S. 2003).

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

/s/ Dawson

Mark S. Davis  
United States District Judge

Norfolk, Virginia

January 11, 2010