

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

BORIS JAMES ALSTON,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No.: 2:14-cv-327
	)	
HAROLD W. CLARKE, Director,	)	
Virginia Department of Corrections,	)	
	)	
Respondent.	)	
	)	

**FINAL ORDER**

Before the Court is a Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 and the Respondent’s Motion to Dismiss the Petition. In his Petition, the *pro se* Petitioner claimed that he was denied effective assistance of appellate counsel under the Sixth and Fourteenth Amendments to the United States Constitution, that the trial judge accepted Mr. Alston’s guilty plea without ensuring whether the plea was voluntary, knowing, and intelligent, and that he was denied effective assistance of trial counsel when counsel failed to object to the trial court acceptance of Mr. Alston’s plea where the plea was not entered knowingly and intelligently. ECF No. 31 at 4.

The matter was referred for disposition to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and (C), Federal Rule of Civil Procedure 72(b), Eastern District of Virginia Local Civil Rule 72, and the April 2, 2002, Standing Order on Assignment of Certain Matters to United States Magistrate Judges. In a Report and Recommendation filed on June 23, 2015, the Magistrate Judge recommended that the Court grant the Motion to Dismiss and dismiss the Petition, finding the Petitioner’s claims to be procedurally barred. ECF No. 25.


The parties were advised of their right to file written objections to the Report and Recommendation. Mr. Alston filed an Objection on August 10, 2015, ECF No. 30, and an Amended Objection on August 19, 2015, ECF No. 31.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, **ADOPTS** and **APPROVES** the findings and recommendations set forth in the Report and Recommendation filed June 23, 2015, ECF No. 25, in its entirety as the Court's own opinion. Accordingly, the Respondent's Motion to Dismiss, ECF No. 18, is **GRANTED**, and the Petition, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**. It is **ORDERED** that Judgment be entered in favor of the Respondent.

The Petitioner is hereby notified that he may appeal from the Judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of the Court at the Walter E. Hoffman United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date that Judgment is entered. Because the Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b)(1), the Court declines to issue a certificate of appealability. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

The Clerk is **DIRECTED** to forward a copy of this Order to the Petitioner and to counsel of record for the Respondent.

It is so **ORDERED**.

  
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**Arenda L. Wright-Allen**  
**United States District Judge**

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

Date:

*Sept 22, 2015*