

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

EUGENE ELLIOTT MORLEY, #1199472

Petitioner,

v.

Civil Action No. 2:15CV134

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, ECF No. 1, and the Respondent's Motion to Dismiss the Petition, ECF No. 20. In his Petition, the *pro se* Petitioner alleges violations of his constitutional rights in relation to his conviction for one count of carjacking and one count of violation of the terms of his (unsupervised) probation on July 28, 2010, in the Circuit Court for the City of Norfolk, which resulted in a sentence of eighteen (18) years and nine (9) months, with five (5) years suspended.

The Petition was referred to a United States Magistrate Judge for report and recommendation 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. The Magistrate Judge's Report and

Recommendation, filed April 22, 2016, recommends dismissal of the Petition with prejudice. ECF No. 22. On May 9, 2016, the Petitioner timely filed objections to the Report and Recommendation. ECF No. 33. The Respondent did not respond to the Petitioner's objections and the time to do so has expired.

The Court, having reviewed the record and examined the objections filed by Petitioner, and having made de novo findings with respect to the portions objected to, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed April 22, 2016. It is, therefore, **ORDERED** that the Respondent's Motion to Dismiss, ECF No. 20, be **GRANTED**, and that the Petition, ECF No. 1, be **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of the Respondent.

The 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.

The Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, and 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, 537 U.S. 322, 335-36 (2003).

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

It is so ORDERED.

/s/ msd

Mark S. Davis
United States District Judge

MARK S. DAVIS
UNITED STATES DISTRICT JUDGE

June 14, 2016