

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



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BRIAN FARABEE,  
  
          Petitioner,  
  
v.  
  
HAROLD W. CLARKE, Director,  
Virginia Department of Corrections,  
  
          Respondent.  
\_\_\_\_\_

CIVIL ACTION NO. 2:15cv256

FINAL ORDER

Petitioner, a Virginia inmate, submitted a *pro se* petition, pursuant to 28 U.S.C. § 2254. ECF No. 1. The Petition challenges the lawfulness of his revocation proceeding in the Dinwiddie Circuit Court.

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 Report and Recommendation filed July 3, 2018, recommends dismissal of the petition. ECF No. 87. Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On August 3, 2018, the Court received

Petitioner's objections to the Report and Recommendation. ECF No. 92.

Also, on August 3, 2018, Petitioner filed a Renewed Motion to Consolidate Pending Federal Habeas Petitions Under § 2254 seeking to combine the instant case with Petitioner's other § 2254 petition filed in Case No. 2:16cv661. ECF No. 90. The Court notes that it previously entered Orders on October 2, 2017 and November 30, 2017, denying Petitioner's Motions to Consolidate. ECF Nos. 68, 78. However, in the instant motion, Petitioner argues that *at this time* there are good reasons for the Court to consolidate his two petitions. Because Petitioner has pointed to no change in circumstances or any new and compelling justification for consolidation since Petitioner's prior motions to consolidate cases were denied, Petitioner's Renewed Motion to Consolidate is **DENIED**.

Petitioner also filed a Motion for Time Dilation on August 3, 2018, seeking an extension of time to file objections to the Magistrate Judge's Report and Recommendation on disposition of the instant habeas petition. ECF No. 91. The Court notes that this motion is dated the same day as the Memorandum in Support of Petitioner's Objections to the Magistrate Judge's Report and Recommendation and both documents were, in fact, filed on the same day. As the Court has received, filed and considered Petitioner's objections to the Magistrate Judge's Report and Recommendation, Petitioner's Motion for Time Dilation is **DENIED AS MOOT**.

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, does hereby adopt and approve the findings and recommendations set forth in the Report and Recommendation filed July 3, 2018. It is, therefore, **ORDERED** that the petition be **DENIED and DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of Respondent.

Petitioner has simply repeated the claims he made in his original petition, and 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*, 537 U.S. 322, 335-36 (2003).

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 this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment.

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

/s/ 

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Mark S. Davis  
United States District Judge

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Mark S. Davis  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia  
September 21, 2018