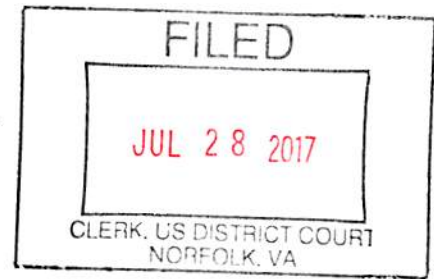


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



DAVID W. SAWYER, #1108944,

Petitioner,

v.

ACTION NO. 2:16cv592

HAROLD W. CLARKE,
Director of the VA. D.O.C.,

Respondent.

FINAL ORDER

Petitioner, a Virginia inmate, filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on October 6, 2016. ECF No. 1. Petitioner alleges violations of federal rights pertaining to his convictions in the Circuit Court of the City of Chesapeake, on November 20, 2009, for robbery, and two counts of possession of a controlled substance.

The matter 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 Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The report and recommendation, filed June 27, 2017, recommends that the respondent's motion to dismiss be granted, the petition for a writ of habeas corpus be denied and dismissed with prejudice, and petitioner's motion for default judgment be denied.

Each party was advised of the right to file objections to the findings and recommendations made by the Magistrate Judge. On July 13, 2017, the Court received petitioner's objections to the report and recommendation. ECF No. 12.

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. The Court, therefore, ORDERS that the respondent's motion to dismiss, ECF No. 5, is GRANTED, the petition for a writ of habeas corpus, ECF No. 1, is DENIED and DISMISSED WITH PREJUDICE, and petitioner's motion for default judgment, ECF No. 9, is DENIED. The Court further ORDERS that judgment be entered in favor of the respondent.

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).

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 the respondent.

/s/ 

Mark S. Davis
United States District Judge

Mark S. Davis
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
July 28, 2017