

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

MATTHEW McKENDRICK (#1536116 4A-39B),

Petitioner,

v.

ACTION NO. 2:16cv600

HAROLD W. CLARKE, Director,
Virginia Department of Corrections,

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 petitioner's constitutional rights pertaining to his convictions in 2014 in Fairfax County Circuit Court for carnal knowledge of a minor. As a result of the convictions, petitioner was sentenced to serve ten years in prison with eight years suspended, leaving an active total prison term of two years.¹

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 February 24, 2017, recommends dismissal of the petition with

¹ Resp't's Br. in Supp. Mot. Dismiss 1 (ECF No. 10, at 1). Petitioner is currently serving a sixty year sentence with fifty-six years suspended following his conviction and sentencing on related charges in Chesterfield County. This Court dismissed Petitioner's federal habeas petition regarding his Chesterfield convictions on November 29, 2016. McKendrick v. Clarke, No. 2:16cv224, 2016 WL 6997043 (E.D. Va. Nov. 29, 2016).

prejudice. The Report and Recommendation advised Petitioner of his right to object and the time limit for doing so. The Court has received no objections, and the time for filing objections has now expired.

Accordingly, the Court does hereby accept the findings and recommendations set forth in the Report and Recommendation filed February 24, 2017, and it is therefore ORDERED that respondent's Motion to Dismiss be GRANTED, and that the petition be DENIED and DISMISSED with prejudice.

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.

Petitioner has 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, 123 S.Ct. 1029, 1039 (2003).

The Clerk is directed to mail a copy of this Final Order to petitioner and provide an electronic copy of the Final Order to counsel of record for respondent.



REBECCA BEACH SMITH
CHIEF UNITED STATES DISTRICT JUDGE

March 28, 2017