

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

LESIA ROSHAD HORTON, #56612-056

Petitioner,

v.

CIVIL ACTION NO. 2:17cv177

**ERIC D. WILSON, Warden
FCC Petersburg Medium**

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2241. The petition challenges a decision by the Bureau of Prisons (“BOP”) which denied Petitioner access to a discretionary sentence reduction available to inmates who complete a residential drug treatment program.

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. Report of the Magistrate Judge was filed on November 8, 2017, recommending dismissal of the petition because the BOP’s decision is not subject to judicial review under the Administrative Procedures Act and Horton’s claims fail to plausibly allege a constitutional or legal defect in the BOP’s enactment or application of the relevant regulations. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The court has received no objections to the Magistrate Judge's Report and Recommendation and the time for filing objections has now expired.

Accordingly, the court does hereby accept the findings and recommendations set forth in the report of the United States Magistrate Judge filed November 8, 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 sixty (60) 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 shall mail a copy of this Final Order to Petitioner and provide an electronic copy of the Final order to counsel of record for Respondent.



RAYMOND A. JACKSON
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
Nov. 5, 2017