

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

DONALD CORNELIUS JACKSON,

Petitioner,

v.

Civil Action No. 2:18-cv-179

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 and the Respondent's Motion to Dismiss the Petition. In his Petition, the *pro se* Petitioner appears to make three main claims. First, Petitioner contests the calculation of good time credit for the days he served in Henrico County Jail. Second, Petitioner appears to allege that when he was transferred to the Virginia Department of Corrections (VDOC) he was identified as an ESC Level II instead of an ESC Level I and was not provided the same opportunity as other offenders in VDOC to enter VDOC as a Level I offender related to his good time credit calculation. Lastly, Petitioner appears to argue that VDOC violated Petitioner's right to due process by failing to notify him of the reason for unfavorable changes to his ESC Level.

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 was filed May 3, 2019 and recommends dismissal of the Petition with prejudice. ECF No. 21. On May 20, 2019, Petitioner timely filed

objections to the Report and Recommendation. ECF No. 23. Respondent has not responded to Petitioner's objections and the time to do so has expired.

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 **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed May 3, 2019. It is, therefore, **ORDERED** that Respondent's Motion to Dismiss, ECF No. 12, is **GRANTED**, and the Petition, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that Judgment be entered in favor of Respondent.

Finding that the procedural basis for dismissal of Petitioner's § 2254 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Petitioner is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). If Petitioner intends to seek a certificate of appealability from the Fourth Circuit, he must do so **within thirty (30) days** from the date of this Order. Petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

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

It is so **ORDERED**.



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Arenda Wright Allen  
United States District Judge

Norfolk, Virginia

*Sept, 4<sup>th</sup>*, 2019