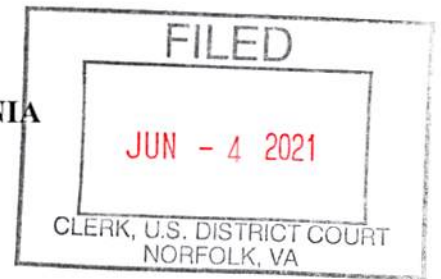


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



DANIEL A. OSWALD, #26190-57,

Petitioner,

v.

ACTION NO. 2:20cv367

J. ANDREWS, Warden,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. Daniel A. Oswald (“Oswald”), a federal prisoner convicted and sentenced in the Eastern District of Virginia, and housed in the Federal Correctional Center in Petersburg, Virginia, alleges he was denied due process when, following a disciplinary hearing held March 19, 2020, he did not receive the written statement of the disciplinary hearing officer. *Id.* at 1–2, 10–11; ECF No. 10, at 3. Oswald further alleges the sanctions imposed by the DHO and the warden for his violation of the Bureau of Prisons disciplinary code was excessive, cruel, and unusual. ECF No. 1, at 6, 11.

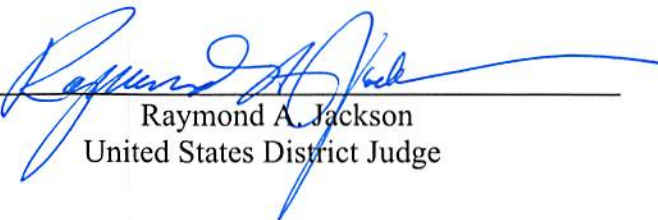
The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge’s Report and Recommendation filed April 19, 2021, recommends dismissal of the petition with prejudice. The Court has received no objections to the Report and Recommendation and the time for filing objections has expired.

The Court does hereby accept the findings and recommendations set forth in the Report and Recommendation, and it is therefore **ORDERED** that respondent's Motion to Dismiss, which was converted into a Motion for Summary Judgment, ECF No. 9, be **GRANTED**, and the petition, ECF No. 1, be **DENIED and DISMISSED with prejudice**. It is further **ORDERED** that judgment be entered in favor of respondent.

Oswald 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, 327, 335–36 (2003).

Oswald 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. R. App. P. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Oswald intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this Final Order. Oswald 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 forward a copy of this Final Order to Oswald and counsel of record for respondent.


Raymond A. Jackson
United States District Judge

Norfolk, Virginia
June 4, 2021