

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

ARONTE DARNESIO JARVIS, #81095-083

Petitioner,

v.

CIVIL NO. 2:20cv424-AWA

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 (ECF No. 1), and Respondent's Motion to Dismiss (ECF No. 7). In his Petition, the *pro se* Petitioner alleges violations of federal rights pertaining to his convictions in the Circuit Court for the City of Newport News for Robbery and Use of a Firearm. As a result of the convictions, Petitioner was sentenced to a mandatory minimum of three years for the use of a firearm and twenty-five years for robbery, with eleven years and five months suspended. ECF No. 9, attach. 1 at 2, 5. Nine years of the robbery sentence is to run consecutively with the active federal sentence he is serving currently. *Id.* at 2.

The Petition was referred for disposition to a United States Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(B)-(C), Federal Rule of Civil Procedure 72(b), Local Civil Rule 72, and the April 2, 2002 Standing Order on Assignment of Certain Matters to United States Magistrate Judges. The Magistrate Judge's Report and

Recommendation recommends dismissal of the Petition with prejudice. ECF No. 17. Petitioner filed objections to the Report and Recommendation. Respondent has not responded to Petitioner's objections and the time to do so has expired.

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, the Court does **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation (ECF No. 17). It is **ORDERED** that Respondent's Motion to Dismiss, ECF No. 7, is **GRANTED**, and the Petition, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that Judgment is 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 notice of appeal with the Clerk of

this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk is DIRECTED to please forward a copy of this Final Order to Petitioner Aronte Darnesio Jarvis and to counsel of record for Respondent.

It is so **ORDERED**.

/s/

Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia
September 23, 2021