

AUG 08 2012

JULIA C. DUDLEY, CLERK
BY: 
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION


DARRYL EVAN WHIDBY,)	
Petitioner,)	Civil Action No. 7:12-cv-00353
)	
v.)	<u>FINAL ORDER</u>
)	
AYLOR,)	By: Samuel G. Wilson
Respondent.)	United States District Judge

In accordance with the Memorandum Opinion entered this day, it is hereby **ORDERED** and **ADJUDGED** that Whidby's 28 U.S.C. § 2254 petition shall be and hereby is **DISMISSED without prejudice**, Whidby's motion to proceed *in forma pauperis* (Docket No. 2) is **DENIED as moot**, and this action shall be **STRICKEN** from the active docket of the court.

Further, finding that Whidby has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

The Clerk is directed to send a certified copy of this Order and accompanying Memorandum Opinion to the petitioner.

ENTER: This 8th day of August, 2012.



United States District Judge