

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

DAVID WAYNE KELLEY,)	CASE NO. 7:17CV00278
Petitioner,)	
)	
v.)	<u>FINAL ORDER</u>
)	
HAROLD W. CLARKE,)	By: Norman K. Moon
Respondent.)	Senior United States District Judge

In accordance with the Memorandum Opinion entered this day, it is hereby **ORDERED** and **ADJUDGED** as follows:

- (1) The Respondent's motion to dismiss (ECF No. 8) is **GRANTED**;
- (2) This action is **STRICKEN** from the active docket of this court; and
- (3) Concluding that Kelley has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is **DENIED**.

The Clerk is directed to send copies of this Order and the accompanying Memorandum Opinion to the parties.

ENTER: This 8th day of December, 2017.



 NORMAN K. MOON
 UNITED STATES DISTRICT JUDGE