

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

TERRENCE DANIELS

CIVIL ACTION

VERSUS

NO. 17-10925

JAMES LEBLANC

SECTION "R" (1)

ORDER

The Court has reviewed *de novo* the petition for *habeas corpus*,¹ the record, the applicable law, and the Magistrate Judge's unopposed Report and Recommendation.² The Magistrate Judge's recommended ruling is correct, and the Court adopts the Report and Recommendation as its opinion herein.

Rule 11 of the Rules Governing Section 2254 Proceedings provides that "[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. Before entering the final order, the court may direct the parties to submit arguments on whether a certificate should issue." Rules Governing Section 2254 Proceedings, Rule 11(a). A court may issue a certificate of appealability only if the petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); Rules Governing Section 2254 Proceedings, Rule 11(a) (noting

¹ R. Doc. 1.

² R. Doc. 5.

that § 2253(c)(2) supplies the controlling standard). The “controlling standard” for a certificate of appealability requires the petitioner to show “that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented [are] ‘adequate to deserve encouragement to proceed further.’” *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003).

For the reasons stated by the Magistrate Judge, the petitioner has not made a substantial showing of the denial of a constitutional right. Accordingly, IT IS ORDERED that the petition is DISMISSED WITHOUT PREJUDICE. The Court will not issue a certificate of appealability.

New Orleans, Louisiana, this 22nd day of January, 2018.


SARAH S. VANCE
UNITED STATES DISTRICT JUDGE