

IN THE
SUPREME COURT OF THE UNITED STATES

Johnson Christopher Jamerson
PETITIONER,

- AGAINST -

CASE NO:

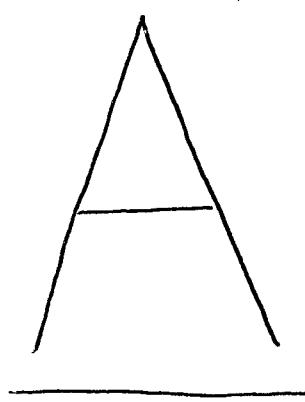
Rickey D. Dixon, Secretary, Fla. Dept of Corrections
RESPONDENT,

Appendix

Exhibit

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(2)

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

JOHNSON CHRISTOPHER JAMERSON,

Petitioner,

v.

CASE NO. 3:20cv3769-MCR-HTC

MARK S. INCH,

Respondent.

O R D E R

This cause comes on for consideration upon the Magistrate Judge's Report and Recommendation dated May 7, 2021. ECF No. 12. The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). I have made a *de novo* determination of all timely filed objections.

Having considered the Report and Recommendation, and any objections thereto timely filed, I have determined that the Report and Recommendation should be adopted.

Accordingly, it is now **ORDERED** as follows:

- (1) The Magistrate Judge's Report and Recommendation is adopted and incorporated by reference in this Order.
- (2) The clerk of the court for the United States District Court for the Northern District of Florida is directed to enter the following judgment: "The Petition Under 28 U.S.C. § 2254, ECF Doc. 1, is **DENIED** in its entirety"
- (3) The clerk is directed to close the file for this case.

DONE AND ORDERED this 10th day of June 2021.

s/ *M. Casey Rodgers*

M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

JOHNSON CHRISTOPHER
JAMERSON

VS

CASE NO. 3:20-cv-03769-MCR-HTC

MARK S INCH

JUDGMENT

Pursuant to and at the direction of the Court, it is
ORDERED AND ADJUDGED that the Petitioner take nothing and that the
Petition Under 28 U.S. C. § 2254 be DENIED in its entirety.

JESSICA J. LYUBLANOVITS
CLERK OF COURT

June 10, 2021
DATE

Is/ Monica Broussard
Deputy Clerk: Monica Broussard

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IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 21-12310-D

JOHNSON CHRISTOPHER JAMERSON,

Petitioner-Appellant,

versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Florida

ORDER:

Johnson Jamerson, a Florida prisoner serving a 15-year sentence for aggravated battery on a law enforcement officer and resisting arrest with violence, seeks a certificate of appealability (“COA”), to appeal the district court’s denial of his *pro se* 28 U.S.C. § 2254 habeas corpus petition. In his petition, he challenged the loss of gain time for a prison infraction, asserting that his due process and equal protection rights were violated because (1) he was found guilty, during a prison disciplinary hearing, of an offense that did not exist as a matter of law, and (2) the State did not refute the merits of his claims in the response that it filed in the state court.

A prisoner may challenge his prison disciplinary proceedings and sanctions by filing a habeas petition under 28 U.S.C. §§ 2241 and 2254, and he must obtain a COA to appeal the denial of such a petition. *Medberry v. Crosby*, 351 F.3d 1049, 1061-63 (11th Cir. 2003). In order to obtain a COA, a petitioner must make “a substantial showing of the denial of a constitutional

right.” 28 U.S.C. § 2253(c)(2). If the district court denied a habeas petition on the merits, the prisoner must demonstrate that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong,” or that the issues “deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quotations omitted).

Here, reasonable jurists would not debate the district court’s denial of Jamerson’s § 2254 petition. As to Ground One, Jamerson’s argument that he was found guilty of an offense that the Florida Supreme Court had held did not exist is meritless because it held, prior to him filing the instant petition, that § 784.07 creates a substantive crime, and that interpretation is binding on this Court. *See State v. Darst*, 837 So. 2d 394, 395 (Fla. 2002); *see also Ramroop v. State*, 214 So. 3d 657, 663 (Fla. 2017); *Bradshaw v. Richey*, 546 U.S. 74, 76 (2005). In any event, the Florida Department of Correction’s (“FDOC”) rule against attempted battery of a correctional officer falls within its authority to promulgate rules relating to the conduct of inmates and the categories of violations. *See Fla. Stat. § 944.09(1)(b)*. Further, there is nothing in the statute requiring that the FDOC only punish conduct that is also criminalized by the State. *See generally id. § 944.09*.

As to Ground Two, although Jamerson argued that his due process and equal protection rights were violated because the State’s answer did not rebut the merits of his claims, the State was required to state whether any of Jamerson’s claims were procedurally barred. *See Holcomb v. Dep’t of Corr.*, 609 So. 2d 751, 753 (Fla. Dist. Ct. App. 1992); *see also Plymel v. Moore*, 770 So. 2d 242, 247 (Fla. Dist. Ct. App. 2000). Further, the State’s decision to raise jurisdictional issues did not affect or invalidate the merits of Jamerson’s claims.

Accordingly, Jamerson’s motion for a COA is DENIED.

/s/ Robin S. Rosenbaum
UNITED STATES CIRCUIT JUDGE

C

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 21-12310-D

JOHNSON CHRISTOPHER JAMERSON,

Petitioner-Appellant,

versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Florida

Before: ROSENBAUM and GRANT, Circuit Judges.

BY THE COURT:

Johnson Jamerson has filed a motion for reconsideration, pursuant to 11th Cir. R. 22-1(c) and 27-2, of this Court's September 24, 2021, order denying his motion for a certificate of appealability. Upon review, Jamerson's motion for reconsideration is DENIED because he has offered no new evidence or arguments of merit to warrant relief.