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FILED: March 26, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-6186
(2:20-cv-00474-RAJ-LRL)

DEANDRE JOHNSON,

Petitioner - Appellant,

v.

CHADWICK DOTSON,

Respondent - Appellee.

ORDER

Deandre Johnson seeks to appeal the district court's order adopting the magistrate judge's report and recommendation and denying relief on his 28 U.S.C. § 2254 petition. We grant a certificate of appealability on the following issue:

> Whether the magistrate judge's finding that Johnson's ineffective assistance of appellate counsel claims were unexhausted and procedurally defaulted is debatable or wrong.

By separate order, the clerk's office shall enter a final briefing order. *See* 4th Cir. R. 22(a)(1)(B).

For the Court

/s/ Nwamaka Anowi, Clerk

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UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-6186

DEANDRE JOHNSON,

Petitioner - Appellant,

v.

CHADWICK DOTSON,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, Senior District Judge. (2:20-cv-00474-RAJ-LRL)

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Submitted: August 12, 2024 Decided: August 15, 2024

Before NIEMEYER and KING, Circuit Judges, and MOTZ, Senior Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

Deandre Johnson, Appellant Pro Se. Liam Alexander Curry, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Deandre Johnson appeals from the district court's final order and judgment adopting the magistrate judge's report and recommendation and dismissing his 28 U.S.C. § 2254 petition. We previously granted a certificate of appealability on the following issue: Whether the magistrate judge's finding that Johnson's ineffective assistance of appellate counsel claims were unexhausted and procedurally defaulted is debatable or wrong. After further briefing, we vacate the district court's final order and judgment and remand for further proceedings.

The Commonwealth asserts that Johnson never raised his ineffective assistance of appellate counsel claims in the district court. But the record does not bear this out. After Johnson filed his § 2254 petition, he moved on May 19, 2021, to supplement the petition by incorporating the state habeas petition. (Doc. 11).* The state habeas petition, filed in the Supreme Court of Virginia, included the ineffective assistance of appellate counsel claims, which the court proceeded to decide on the merits. In the motion to supplement, Johnson added claims that appellate counsel was ineffective by: (1) presenting claims on direct appeal that were not raised in the trial court; (2) refusing to remove himself; and (3) failing to raise the following issues that were raised in the trial court: (a) the prosecution did not exclude defendant's theory that he never penetrated the victim and his DNA would be absent from the victim's vagina; (b) the victim's testimony was inherently incredible; (c) the trial court refused to admit material impeachment evidence, violating

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* "Doc." citations are to entries on the district court's docket.

Chapman v. California, 386 U.S. 18 (1967); (d) the prosecution knowingly presented false testimony, violating *Napue v. Illinois*, 360 U.S. 264 (1959); (e) the offense of assault and battery is the lesser included offense of strangulation; and (f) the prosecution failed to show the defendant had the necessary specific intent. (Doc. 11 at 2). The magistrate judge granted Johnson's motion to supplement and acknowledged that Johnson was seeking to add additional ineffective assistance of counsel claims. (Doc. 24).

On November 8, 2021, Johnson moved to amend his § 2254 petition, expanding on his ineffective assistance of appellate counsel claims raised in his May 19, 2021, motion to supplement. Of relevance to this appeal, Johnson claimed appellate counsel was ineffective for not arguing on appeal that the evidence did not exclude Johnson's defense that he entered the victim's apartment with the intent to reconcile. (Doc. 25 at 2-3). The magistrate judge granted the motion to amend. (Doc. 46). Because the magistrate judge granted the motion to supplement and the motion to amend, Johnson's ineffective assistance of counsel claims were before the district court.

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The Commonwealth further asserts that even if Johnson raised the ineffective assistance of appellate counsel claims in the district court, he fails to seek a certificate of appealability or present argument on the issue, and did not timely respond to the magistrate judge's report and recommendation. But this assertion lacks merit. In his informal brief, Johnson asserted that his ineffective assistance of appellate counsel claims were properly exhausted and demonstrated when these claims were presented to the Supreme Court of Virginia.

Inmates are generally provided the benefit of the mailbox rule, which considers prisoner court filings to be "filed" as of the date that the documents are given to prison authorities for mailing. *See Houston v. Lack*, 487 U.S. 266, 276 (1988); Rule 3(d) of the Rules Governing Section 2254 Cases in the United States District Courts; *see also Wall v. Rasnick*, 42 F.4th 214, 218 (4th Cir. 2022) (applying "mailbox rule" to objections to report and recommendation). We conclude that Johnson timely objected to the magistrate judge's report and recommendation. The report and recommendation was dated June 14, 2022. Johnson's objections were dated June 21, 2022, within the 14-day period to file timely objections.

The Commonwealth also addresses the merits of Johnson's claims, asserting that the Supreme Court of Virginia's decision was not contrary to or an unreasonable application of federal law. This Court may "disturb the state court's ruling if it (1) 'resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States,' or (2) 'resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.'" *Burr v. Jackson*, 19 F.4th 395, 403 (4th Cir. 2021) (quoting 28 U.S.C. § 2254(d)).

But the Commonwealth did not address the merits of Johnson's ineffective assistance of appellate counsel claims in the district court. Although we "may affirm judgments on alternative grounds to those relied upon by a lower court, this contemplates that the alternative ground shall first have been advanced in that court, whether or not there considered." *Skipper v. French*, 130 F.3d 603, 610 (4th Cir. 1997) (citation omitted).

While we may consider issues raised for the first time on appeal in exceptional circumstances, this is not one of those cases. *Id.* Because Johnson exhausted his ineffective assistance of appellate counsel claims when the Supreme Court of Virginia addressed those claims on the merits, the district court should be the first to address them. *Id.* at 614.

Accordingly, for the reasons given above, the judgment of the district court is vacated and the case remanded for proceedings consistent with this opinion. We deny Johnson's motion for equitable tolling and to expedite. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

VACATED AND REMANDED

FILED: August 15, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-6186
(2:20-cv-00474-RAJ-LRL)

DEANDRE JOHNSON

Petitioner - Appellant

v.

CHADWICK DOTSON

Respondent - Appellee

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JUDGMENT

In accordance with the decision of this court, the judgment of the district court is vacated. This case is remanded to the district court for further proceedings consistent with the court's decision.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ NWAMAKA ANOWI, CLERK

B

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

DEANDRE JOHNSON, #20182885

Petitioner,

v. **Case No. 2:20cv474**

HAROLD W. CLARKE, Director,
Virginia Department of Corrections,

Respondent.

REPORT AND RECOMMENDATIONS

This matter is before the Court on Petitioner Deandre Johnson's ("Petitioner") *pro se* Petitions for a Writ of Habeas Corpus ("the Petitions") filed pursuant to 28 U.S.C. § 2254, ECF Nos. 1, 15, and Respondent Harold W. Clarke's ("Respondent") Motion to Dismiss, ECF No. 26. The matter was referred for a recommended disposition to the undersigned United States Magistrate Judge ("undersigned") pursuant to 28 U.S.C. §§ 636(b)(1)(B) and (C), Federal Rule of Civil Procedure 72(b), Eastern District of Virginia Local Civil Rule 72, and the April 2, 2002, Standing Order on Assignment of Certain Matters to United States Magistrate Judges. The undersigned makes this recommendation without a hearing pursuant to Federal Rule of Civil Procedure 78(b) and Eastern District of Virginia Local Civil Rule 7(J). For the following reasons, the undersigned **RECOMMENDS** that the Respondent's Motion to Dismiss, ECF No. 26, be **GRANTED**, and the Petitions, ECF Nos. 1, 15, be **DENIED** and **DISMISSED WITH PREJUDICE.**

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I. PROCEDURAL BACKGROUND

On June 5, 2019, Petitioner was convicted of Strangulation, Rape, Assault and Battery-

demonstrated no 'lasting injury' to her"; (2) that "Tejada's testimony that he penetrated her vagina with his penis was not credible because she 'did not actually see his penis' and she admitted he could not maintain an erection"; and (3) that the evidence failed to prove that he entered Tejada's apartment unlawfully because 'nothing in [his] testimony suggests that he entered [her] apartment without her consent' and that no physical evidence refuted his testimony." *Id.* at 4.

On August 20, 2020, the Court of Appeals denied Petitioner's appeal and found that the Trial Court was entitled to accept the victim's testimony and to reject Petitioner's self-serving account, and that the victim's account of events was corroborated by physical evidence and another witness' testimony. ECF No. 28, attach. 1 at 1, 5-6. Petitioner then appealed to the Supreme Court of Virginia, and the Supreme Court of Virginia refused the appeal on August 6, 2021. ECF No. 28 at 2.

On April 19, 2019, Petitioner was also convicted of five counts of Protective Order Violations in the Spotsylvania County Circuit Court (the "Second Convictions"). ECF No. 28 at 2; ECF No. 15 at 1. He was sentenced to serve twelve months of incarceration with ten months suspended on each count. ECF No. 28, attach. 4 at 1; ECF No. 15 at 1. Petitioner appealed those convictions to the Court of Appeals of Virginia, but, on June 2, 2020, Petitioner moved to withdraw his notice of appeal, which the Court of Appeals of Virginia granted on June 3, 2020. ECF No. 28 at 3; ECF No. 15 at 2.

Petitioner has also filed at least three separate petitions for Writ of Habeas Corpus in the Supreme Court of Virginia. Petitioner filed the first petition on December 2, 2019 (the "First State Habeas Petition") challenging his First Convictions and raising the following claims: "sufficiency of evidence, confrontation clause, witness credibility and double jeopardy." ECF No. 1 at 3. On August 24, 2020, the Supreme Court of Virginia dismissed the First State Habeas Petition, finding

that Petitioner's claims "are barred because a petition for a writ of habeas corpus may not be employed as a substitute for an appeal." ECF No. 28, attach. 2 at 1.

Petitioner filed the second petition on January 30, 2020 (the "Second State Habeas Petition"), challenging his Second Convictions and raising the following claims: (1) "the trial court failed to comply with Rule 5A:8(d) when it granted the Commonwealth's objection to petitioner's statement of facts, failed to conduct a hearing, and signed the Commonwealth's statement of facts; and (2) that the evidence at trial was insufficient to sustain his convictions. *See* ECF No. 28, attach. 4 at 1. On August 24, 2020, the Supreme Court of Virginia dismissed the Second State Habeas Petition, finding that Petitioner's claims "are barred because a petition for a writ of habeas corpus may not be employed as a substitute for an appeal." ECF No. 28, attach. 2 at 2.

Petitioner filed a third Petition for a Writ of Habeas Corpus on November 17, 2020 (the "Third State Habeas Petition"), alleging that pursuant to his Second Convictions, "he was denied the effective assistance of counsel when his counsel failed to advise him that, if he withdrew his appeal, his appellate claims would be waived." ECF No. 28, attach. 4 at 1. Petitioner asserted that "he wished to challenge the trial court's interpretation of Code § 16.1-253.2 and the sufficiency of the evidence to sustain his convictions" and that "had he known he could not later raise these issues in a collateral review proceeding, he would have proceeded with the appeal and his appeal would have succeeded." *Id.* In dismissing the Third State Habeas Petition, the Supreme Court of Virginia held:

> this claim satisfies neither the 'performance' nor the 'prejudice' prong of the two-part test enunciated in *Strickland v. Washington*, 466 U.S. 668, 687 (1984). The record, including the affidavit that petitioner filed in support of his request to withdraw his appeal, demonstrates that petitioner provided the Court of Appeals with a notarized affidavit in which he averred counsel advised him he could waive his appeal, but if he did, his appellate issues would be abandoned 'irrevocably.'

C. *"Confrontation Clause Violation (Chapman v. California, 386 U.S. 18 (1967))"*
ECF No. 9 at 2, 5; ECF No. 11, attach. 1 at 6–7; ECF No. 25 at 2.

D. *"Napue v. Illinois, 360 U.S. 264 (1959) (False Testimony)"*
ECF No. 1 at 9; ECF No. 9 at 2, 5–6; ECF No. 11, attach. 1 at 9–11; ECF No. 25 at 1–2.

E. *"Strangulation Conviction Violates Double Jeopardy Clause, Where Petitioner Was Also Convicted of Common Law Assault and Battery"*
ECF No. 1 at 4; ECF No. 9 at 2, 6–7; ECF No. 11, attach. 1 at 10; ECF No. 25 at 2.

F. *"Insufficient Evidence to Prove Requisite Specific Intent (Unlawful Entry)"*
ECF No. 1 at 11; ECF No. 9 at 2, 7; ECF No. 11, attach. 1 at 5.

G. *"Substantive and Procedural Denial of Due Process (Virginia Code § 8.01-654 creates a liberty and property interest that was denied to Petitioner, and VA Rule 5:7(a)(4) is facially unconstitutional)"*
ECF No. 1 at 11.

H. *"Counsel Was Ineffective By:*
   a) *Presenting claims on direct appeal that were not presented in the Trial Court;*
   b) *Refusing to remove himself as counsel; and*
   c) *Failing to raise issues on direct appeal which were presented in the Trial Court, including the claims A-G outlined above."*
ECF No. 11, attach. 1 at 1–14; ECF No. 25 at 2–3.

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The Second 2254 Petition raises the following claims:

1. *"Insufficient Evidence to Prove Violation of a Protective Order"*
ECF No. 15 at 4.

2. *"Erroneous Interpretation of a Statute Va Code. § 16.1-253.2"*
ECF No. 15 at 6

3. *"Substantive and Procedural Due Process Violation by Denying Petitioner His Liberty and Property Interest in Va. Code 8.01-654"*
ECF No. 15 at 7.

4. *"Violation of First Amendment/Prejudice"*
ECF No. 16 at 1; ECF No. 25 at 2.

5. *"Counsel Was Ineffective By Failing to Advise Petitioner of the Consequences of Withdrawing His Direct Appeal on a Future Habeas Petition."*
ECF No. 16 at 3–6; ECF No. 25 at 3.

3. Cognizable Claims

"A state prisoner is entitled to relief under § 2254 only if he is held 'in custody in violation of the Constitution or laws or treaties of the United States.'" *Billotti v. Legursky*, 975 F.2d 113, 119 (4th Cir. 1992) (quoting *Engle v. Isaac*, 456 U.S. 107, 109 (1982)). Thus, questions of state law that do not implicate federal rights are not cognizable on federal habeas review. *Id.* (citing *Inge v. Procunier*, 758 F.2d 1010, 1014 (4th Cir. 1985). "[I]t is not the province of a federal habeas court to reexamine state-court determinations on state-law questions." *Estelle v. McGuire*, 502 U.S. 62, 67–68 (1991); *see also Wright v. Angelone*, 151 F.3d 151, 158 (4th Cir. 1998) (holding a petitioner's allegation that the state court lacked jurisdiction rested upon state law and therefore was not cognizable on federal habeas review); *Bryant v. Maryland*, 848 F.2d 492, 493 (4th Cir. 1988) (holding that errors involved with state post-conviction proceedings are not cognizable on federal habeas review).

4. Claims C, D, E, H, 1, 2, and 4 are simultaneously exhausted and procedurally defaulted on adequate and independent state-law grounds.

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Although Petitioner did not raise Claims C, D, E, 1, 2, and 4 on direct appeal, he did raise them in the First and Second State Habeas Petition, which were presented to the Supreme Court of Virginia. However, the Supreme Court of Virginia dismissed these claims, finding that the claims were barred because a petition for writ of habeas corpus may not be substituted for an appeal pursuant to *Brooks v. Peyton*. *See* ECF No. 28, attach. 2 at 1–2. The Supreme Court of Virginia's application of the rule in *Brooks v. Peyton* is an adequate and independent state law ground for dismissal of Petitioner's claims. *Jeffers v. Allen*, No. 1:15CV808, 2016 WL 8731439, at *3 (E.D. Va. Mar. 18, 2016) (holding that state habeas court's application of *Brooks v. Peyton* is an adequate and independent state-law ground for a finding of procedural default). Accordingly,

these claims are simultaneously exhausted and procedurally defaulted for purposes of federal habeas review.

Petitioner failed to exhaust Claim H[3] because he did not present it to the Supreme Court of Virginia either on direct appeal or through a state habeas petition. If Petitioner were to present Claim H in a new state habeas petition to the Supreme Court of Virginia, it would be procedurally barred as both untimely under Virginia Code § 8.01-654(A)(2), and successive under Virginia Code § 8.01-654(B)(2). Both Virginia Code § 8.01-654(A)(2) and Virginia Code § 8.01-654(B)(2) constitute adequate and independent state-law grounds for decision. *Sparrow*, 439 F. Supp. 2d 584, 587–88 (E.D. Va. 2006) (Va. Code § 8.01-654(A)(2) is an independent and adequate state procedural rule); *Clagett v. Angelone*, 209 F.3d 370, 379 (4th Cir. 2000) (Va. Code § 8.01-654(B)(2) is an independent and adequate state procedural rule). Accordingly, Claim H is simultaneously exhausted and procedurally defaulted for purposes of federal habeas review. 14

As noted, Petitioner may overcome procedural default by "showing [] cause and prejudice or a fundamental miscarriage of justice due to [his] actual innocence." *Silk*, 2009 WL 742552, at *3 (citing *Bousley v. United States*, 523 U.S. 614, 622 (1998), and *Harris v. Reed*, 489 U.S. 255, 262 (1989)). Although Petitioner asserts that he is not guilty of the crimes upon which he was convicted because the prosecution did not meet the legal requirements of the offenses, Petitioner does not assert that he is actually innocent, or present any evidence of actual innocence. The gist of Petitioner's claim is that the jury should have believed him and not the other evidence. Such a contention does not establish "actual innocence." Absent a sufficient assertion of actual innocence, or evidence supporting actual innocence, Petitioner cannot demonstrate a fundamental miscarriage

[3] Respondent did not identify Claim H as one of Petitioner's claims for relief in this federal habeas petition, but the Court nonetheless considers it as part of Petitioner's claims. *See* ECF No. 11, attach. 1 at 2; ECF No. 32 at 5.

III. OUTSTANDING DISPOSITIVE MOTIONS

Petitioner filed two dispositive motions in this case, including a Motion for Summary Judgment (ECF No. 33), and a Motion for Injunctive Relief (ECF No. 40). Petitioner's Motion for Summary Judgment raises the same claims as the Petitions and requests that the Court grant the relief he requested in his Petitions. *See* ECF No. 33. The Motion for Injunction Relief requests the Court enjoin the Commonwealth of Virginia from enforcing his Second Convictions. ECF No. 40. Based on the undersigned's recommendation to dismiss each claim in the Petitions, the undersigned also **RECOMMENDS** that Petitioner's Motion for Summary Judgment, ECF No. 33, and Motion for Injunctive Relief, ECF No. 40, be **DISMISSED as MOOT.**

IV. RECOMMENDATION

For these reasons, the undersigned **RECOMMENDS** that the Respondent's Motion to Dismiss, ECF No. 26, be **GRANTED**, and the Petitions, ECF Nos. 1, 15, be **DENIED** and **DISMISSED WITH PREJUDICE**. The undersigned also **RECOMMENDS** that Petitioner's Motion for Summary Judgment, ECF No. 33, and Motion for Injunctive Relief, ECF No. 40, be **DISMISSED as MOOT.** 15

V. OUTSTANDING NON-DISPOSITIVE MOTIONS

Petitioner further filed a number of other motions in this case, including: a Motion to Amend/Correct (ECF No. 25), a Motion for Immediate Relief and Clarification (ECF No. 31), two Motions for Writ of Mandamus (ECF Nos. 37, 38), a Motion for Recusal (ECF No. 41), and a Motion for Sanctions (ECF No. 42). Further, Respondent filed a Motion to Stay (ECF No. 34). The Court reviews each in turn below.

Petitioner's Motion to Amend requests that he be permitted to amend his Second 2254 Petition to elaborate on his claims. ECF No. 25. Petitioner's Motion to Amend, ECF No. 25, is

of this Court based on such findings and recommendations. *Thomas v. Arn*, 474 U.S. 140 (1985); *Carr v. Hutto*, 737 F.2d 433 (4th Cir. 1984), *cert. denied*, 474 U.S. 1019 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984).

The Clerk is **DIRECTED** to forward a copy of this Report and Recommendation to Petitioner and to counsel for Respondent.

/s/
Lawrence R. Leonard
United States Magistrate Judge

Lawrence R. Leonard
United States Magistrate Judge

Norfolk, Virginia
June 14, 2022

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

DEANDRE JOHNSON, #20182885,

Petitioner,

v. CIVIL ACTION NO. 2:20CV474

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 Nos. 1, 15, and the Respondent's Motion to Dismiss, ECF No. 26. In his Petitions, the *pro se* Petitioner alleges violation of federal rights pertaining to his convictions in the Circuit Court of Spotsylvania County for Strangulation, Rape, Assault and Battery-Family Member and Unlawful Entry ("First Convictions") and five counts of Protective Order Violations ("Second Convictions"). As a result of the convictions, Petitioner was sentenced to serve 14 years in prison on the First Conviction and 12 months with 10 months suspended on each count in the Second Conviction.

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The Petitions were referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed June 14, 2022, recommends dismissal of the Petitions with prejudice, ECF No. 46. On July 21, 2022, Petitioner untimely filed objections to the Report and Recommendation. Respondent has not responded to Petitioner's objections and the time to do so has expired.

The Court, 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, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed June 14, 2022. It is, therefore, **ORDERED** that the Respondent's Motion to Dismiss, ECF No. 26, be **GRANTED**, and that the Petitions, ECF Nos. 1 and 15, be **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of the 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).

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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 written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk shall forward a copy of this Order to Petitioner and to counsel of record for the Respondent.

It is so **ORDERED**.

Raymond A. Jackson
United States District Judge

Norfolk, Virginia
August 17, 2022

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FILED: September 20, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-6186
(2:20-cv-00474-RAJ-LRL)

DEANDRE JOHNSON

Petitioner - Appellant

v.

CHADWICK DOTSON

Respondent - Appellee

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ORDER

The court denies the petition for rehearing.

Entered at the direction of the panel: Judge Niemeyer, Judge King, and Senior Judge Motz.

For the Court

/s/ Nwamaka Anowi, Clerk