

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

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CHRISTOPHER THORNTON,  
Petitioner,

v.

ASHBEL T. WALL,  
Respondent.

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) C.A. No. 02-412-JJM-PAS  
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ORDER

Petitioner Christopher Thornton has asked the Court to reconsider its July 25, 2018 Text Order denying his motion to reopen this case. ECF No. 43. He has also moved for leave to proceed *in forma pauperis* (ECF No. 44) and asks for a certificate of appealability (ECF No. 45). After filing these motions, he appealed the July 25, 2018 Text Order. ECF No. 46.

First, this Court will not issue a certificate of appealability pursuant to Federal Rule of Appellate Procedure 22 and Rule 11 of the Rules Governing Proceedings Under § 2254. A certificate of appealability will issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). To satisfy this requirement, the petitioner must 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 were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893

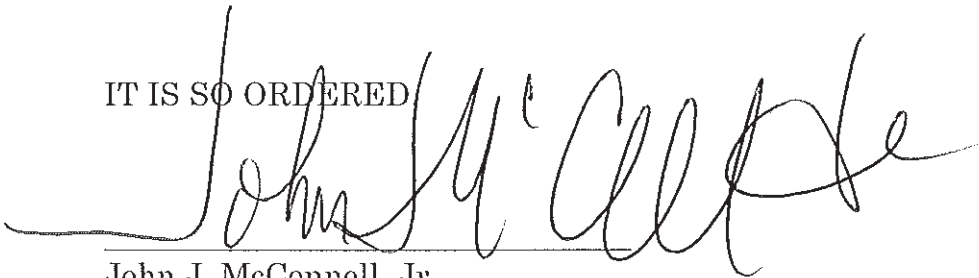
n.4 (1983)). Mr. Thornton has shown neither of these requirements, so no certificate of appealability will issue.

Second, the Court denies Mr. Thornton's motion for leave to proceed *in forma pauperis*. The Court construes this as a motion to conduct his appeal *in forma pauperis*; in light of the foregoing, that issue is moot. Mr. Thornton has already been denied leave to proceed *in forma pauperis* in this Court. ECF No. 6.

Finally, the Court denies without prejudice Mr. Thornton's motion for reconsideration. When Mr. Thornton filed a notice of appeal, this Court was divested of jurisdiction. If the case is returned to this Court, Mr. Thornton may refile his motion.

For the foregoing reasons, Mr. Thornton's motions (ECF Nos. 43, 44, and 45) are DENIED as stated.

IT IS SO ORDERED

A handwritten signature in black ink, appearing to read "John J. McConnell, Jr.", written over a horizontal line.

John J. McConnell, Jr.  
United States District Judge

August 8, 2018