

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MICHAEL THOMPSON,)
)
Petitioner,)
)
v.) Civil No. 04-106-B-W
)
WARDEN, MAINE STATE PRISON,)
)
Respondent.)

**ORDER AFFIRMING THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge filed with the Court on April 5, 2005 his Recommended Decision (Docket #20). The Petitioner filed his objections to the Recommended Decision on June 13, 2005 (Docket #25) and the Respondent filed its response to those objections on June 15, 2005 (Docket #26). I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision, and determine that no further proceeding is necessary.

1. It is therefore ORDERED that the Recommended Decision of the Magistrate Judge is hereby AFFIRMED.

2. It is further ORDERED that Petitioner's 28 U.S.C. § 2254 Petition (Docket #15) is DENIED.¹

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 17th day of June, 2005

Petitioner

MICHAEL THOMPSON

represented by **MICHAEL THOMPSON**
MAINE STATE PRISON
807 CUSHING ROAD
WARREN, ME 04864-4600
PRO SE

V.

Respondent

**WARDEN, MAINE STATE
PRISON**

represented by **DONALD W. MACOMBER**
MAINE ATTORNEY GENERAL'S
OFFICE
STATE HOUSE STATION 6
AUGUSTA, ME 04333
626-8800
Email:
donald.w.macomber@maine.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

¹ There is some question whether the Recommended Decision recommends denial or dismissal of the 28 U.S.C. § 2254 Petition. At the end of the first paragraph, the Magistrate Judge recommends "that the court *deny the petitions on the merits.*" Rec. Dec. at 1 (emphasis added). However, in his conclusion, the Magistrate Judge states: "I deny the petitioner's motion to strike [Respondent's Motion to Dismiss] and recommend that the petition for a writ of habeas corpus be **DISMISSED** without a hearing." *Id.* at 10. The Recommended Decision addressed the merits of Petitioner's one claim not procedurally defaulted and rejected that claim after reviewing the evidence. Therefore, this Court concludes the Recommended Decision recommends denial, rather than dismissal, of Petitioner's 28 U.S.C. § 2254 Petition.

ANDREW B BENSON
OFFICE OF THE ATTORNEY
GENERAL
6 STATE HOUSE STATION
AUGUSTA, ME 04333
207-626-8567
Email: andrew.b.benson@maine.gov
ATTORNEY TO BE NOTICED