

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CALVIN GREGORY,

Petitioner,

v.

JANE GAMBLE, Warden,
Kettle Moraine Correctional
Institution,

Respondent.

ORDER

02-C-510-C

Petitioner Calvin Gregory has filed objections to the report and recommendation filed by the United States Magistrate Judge on January 7, 2003. Having read the report, the objections, the respondent's response and reviewed the record, I conclude that the magistrate judge was correct in his recommendation to deny petitioner Gregory's petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254.

Petitioner objects only to the magistrate judge's recommendation to deny his Batson claim for procedural default. He does not object to the recommendation to deny his remaining claims. With respect to his Batson claim, petitioner shows no reason why the state courts erred in their application of federal law to petitioner's claim.

Without a showing that a state court has applied federal law erroneously, that is contrary to federal law or unreasonably, or that a state court based its decision on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding, a petitioner cannot succeed in obtaining a writ of habeas corpus in a federal court. 28 U.S.C. § 2254(d). Petitioner has not made either showing. Therefore, his petition for a writ of habeas corpus must be denied.

ORDER

IT IS ORDERED that the report and recommendation of the United States Magistrate Judge is adopted. Furthermore, IT IS ORDERED that petitioner Calvin Gregory's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is dismissed with prejudice.

Entered this 18th day of February, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge