

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TSCHAKA W. FORTT,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 02-372-GMS
)	
THOMAS CARROLL, Warden, and)	
ATTORNEY GENERAL OF THE)	
STATE OF DELAWARE,)	
)	
Respondents.)	
)	

ORDER

Petitioner Tschaka W. Fortt is a Delaware inmate incarcerated at the Delaware Correctional Center in Smyrna. Fortt has filed with the court a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (D.I. 2.) On May 15, 2002, the court notified Fortt that the Antiterrorism and Effective Death Penalty Act of 1996 applies to his petition, and instructed him to elect whether to proceed with the petition as filed. (D.I. 1.) The court received Fortt's election form on June 18, 2002, indicating that he wishes to withdraw his habeas petition without prejudice to file one all-inclusive petition within the one-year period of limitation prescribed by 28 U.S.C. § 2244(d). (D.I. 6.)

Accordingly, IT IS HEREBY ORDERED as follows:

- (1) Fortt's request to withdraw his habeas petition filed pursuant to 28 U.S.C. § 2254 is GRANTED, and the petition is DISMISSED WITHOUT PREJUDICE.

(2) The court declines to issue a certificate of appealability pursuant to 28 U.S.C. § 2253(c)(2) for failure to make a substantial showing of the denial of a constitutional right.

(3) The clerk is instructed to close this case.

IT IS SO ORDERED.

Dated: June 21, 2002

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE