

UNITED STATES COURT OF APPEALS June 17, 2008

TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

ANTONIO GRAHAM,
Petitioner-Appellant,
v.
TIMOTHY HATCH, Warden,
Respondent-Appellee.

No. 07-2246
(D.C. No. 06-cv-00602-JCH-DJS)
(D. N.M.)

ORDER*

Before **O'BRIEN, McKAY, and GORSUCH**, Circuit Judges.

Pro se Petitioner Antonio Graham, a New Mexico State inmate, seeks a certificate of appealability to appeal the district court's denial of his 28 U.S.C. § 2254 habeas petition. Petitioner was convicted on multiple drug-related charges and was sentenced to just under forty years' imprisonment. After pursuing the state appeals process, Petitioner filed the instant petition in federal court asserting multiple claims, all of which the district court denied on the merits based on the magistrate judge's proposed findings and recommendations.

Petitioner must obtain a certificate of appealability to challenge the district court's denial of his habeas corpus petition. *See Montez v. McKinna*, 208 F.3d

* This order is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

862, 867 (10th Cir. 2000). To obtain a certificate of appealability, Petitioner must make a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2) (2006). To meet this burden, Petitioner must demonstrate “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) (internal quotation marks omitted).

In his brief to this court, Petitioner does not make a substantial showing that he was denied his constitutional rights. He merely reiterates the arguments he made in the state courts and at the federal district court level, which were correctly rejected for the reasons stated by those courts.

We conclude the district court correctly denied Petitioner’s habeas petition. Nothing in Petitioner’s arguments convinces us he has met our standard for issuing a certificate of appealability. For substantially the reasons set forth in the magistrate judge’s report and adopted by the district court, we **DENY** Petitioner’s request for a certificate of appealability and **DISMISS** the appeal.

Entered for the Court

Monroe G. McKay
Circuit Judge