

August 12, 2011

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

SIR TRAMANE ANTOINE NEAL,

Petitioner - Appellant,

v.

GREG PROVINCE,

Respondent - Appellee.

No. 11-6130
(D.C. No. 10-CV-01120-C)
(W.D. Okla.)

ORDER
DENYING CERTIFICATE OF APPEALABILITY

Before **KELLY, HARTZ, and HOLMES**, Circuit Judges.

Mr. Sir Neal, a state inmate proceeding pro se, seeks a certificate of appealability (“COA”) to appeal from the district court’s denial of his 28 U.S.C § 2254 petition for habeas corpus including a request for an evidentiary hearing. See Neal v. Province, No. CIV–10–1120–C, 2011 WL 1375969 (W.D. Okla. Apr. 12, 2011). Mr. Neal was convicted of aggravated attempt to elude a police officer after former conviction of two or more felonies and sentenced to a term of 25 years. 1 R. 4. His conviction was affirmed on direct appeal. See Neal v. Province, No. CIV–10–1120–C, Doc. 10-1.

The district court adopted the thorough report and recommendation of the assigned magistrate judge. The magistrate judge concluded, inter alia, that the

evidence was sufficient to convict, that the jury could consider prior sentences and the possibility of parole during sentencing under state law, and that Mr. Neal had not demonstrated ineffective assistance of counsel. Neal v. Province, No. CIV-10-1120-C, 2011 WL 1376008 (W.D. Okla. Mar. 21, 2011).

We have reviewed Mr. Neal's multiple propositions of error against a backdrop of the deference accorded state court decisions, 28 U.S.C. § 2254(d), and presumption of correctness of state court factual findings, 28 U.S.C. § 2254(e), and conclude that the district court's resolution of the claims (as amplified by the magistrate judge's report and recommendation) is not reasonably debatable.

We DENY a COA, DENY IFP status as moot, and DISMISS the appeal.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge