FILED
United States Court of Appeals
Tenth Circuit

October 24, 2013

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. MICHAEL WAYNE FLEMING, Defendant - Appellant.	No. 13-8041 (D.C. Nos. 2:12-CV-00273-ABJ and 2:10-CR-00125-ABJ-1) (D. Kan.)

ORDER DENYING CERTIFICATE OF APPEALABILITY[*]

Before **LUCERO**, **McKAY**, and **MURPHY**, Circuit Judges.

Appellant Michael Fleming seeks a certificate of appealability to appeal the district court's denial of his 28 U.S.C. § 2255 habeas petition.

Appellant was convicted of a drug-trafficking offense and sentenced to twenty years' imprisonment. This court affirmed his conviction and sentence on direct appeal. *United States v. Fleming*, 667 F.3d 1098 (10th Cir. 2011). Appellant then filed the instant habeas petition in which he raised seven claims of ineffective assistance of counsel and two claims of prosecutorial misconduct. Appellant also sought broad discovery he

[*] This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

believed would "provide information regarding what his counsel knew, when he knew it and what he did to prepare for trial." (Appellant's App. at 65.)

The district court considered each of Appellant's nine habeas claims and explained why each claim failed to set forth a valid basis for relief. The district court also held that Appellant's general and conclusory statement regarding his need for discovery was not sufficient to show good cause under the applicable standards for discovery in a § 2255 proceeding. *See Wallace v. Ward*, 191 F.3d 1235, 1245 (10th Cir. 1999) ("Good cause is established 'where specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is . . . entitled to relief.'" (alteration in original) (quoting *Bracy v. Gramley*, 520 U.S. 899, 908-09 (1997))).

After carefully reviewing the record and Appellant's filings on appeal, we conclude that reasonable jurists would not debate the correctness of the district court's thorough analysis of each of Appellant's claims. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000). We likewise conclude that reasonable jurists would not debate the district court's conclusion that Appellant failed to establish good cause to conduct discovery. Therefore, for substantially the same reasons given by the district court, we **DENY** Appellant's request for a certificate of appealability and **DISMISS** the appeal.

Appellant's motion to proceed *in forma pauperis* on appeal is **GRANTED**.

ENTERED FOR THE COURT

Monroe G. McKay
Circuit Judge