

UNITED STATES COURT OF APPEALS

September 11, 2015

TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

KEITH BROOKS,

Petitioner - Appellant,

v.

RICK RAEMISCH, Exec Director
Colorado Dept of Corrections;
BOBBY BONNER, Warden Limon
Correctional Facility; JOHN
SUTHERS, Attorney General, State of
Colorado,

Respondents - Appellees.

No. 15-1051
(D.C. No. 1:13-CV-03013-REB)
(D. Colo.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **GORSUCH, McKAY**, and **BACHARACH**, Circuit Judges.

Petitioner Keith Brooks, a state prisoner represented by counsel, seeks a certificate of appealability to appeal the district court's denial of his § 2254 habeas petition.

Following a Colorado jury trial, Petitioner was convicted of attempted first-degree murder of a peace officer, attempted second-degree murder, first-degree assault of a peace officer, felony menacing, and first-degree burglary. He was

* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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

adjudicated a habitual offender and sentenced to a 144-year term of imprisonment. On direct appeal, the Colorado Court of Appeals affirmed his convictions but vacated his sentence in part based on double jeopardy principles. Following resentencing, Petitioner filed a motion for state post-conviction relief. The state district court denied this motion, and the appellate court affirmed. The Colorado Supreme Court denied certiorari review.

Petitioner then filed the instant petition for federal habeas relief, in which he raised two claims previously raised in the state court proceeding: (1) he was denied a fair trial when the trial court allowed the prosecution to admit evidence of other burglaries; and (2) his right to effective assistance of counsel was violated when his trial lawyer failed to object to the jury instructions on complicity and when his appellate counsel failed to raise this issue on appeal. The district court concluded that the state courts' rejection of these claims was not contrary to clearly established federal law or based on an unreasonable determination of the facts, and the court therefore denied habeas relief under 28 U.S.C. § 2254(d).

Petitioner seeks a certificate of appealability to appeal the denial of his claim of ineffective assistance of counsel. After thoroughly reviewing Petitioner's arguments and the record on appeal, we are persuaded that reasonable jurists would not debate the correctness of the district court's resolution of this claim. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Therefore, for substantially the same reasons given by the district court in its thorough and well-reasoned opinion, we **DENY** Petitioner's request for a certificate of appealability and **DISMISS** the appeal.

ENTERED FOR THE COURT

Monroe G. McKay
Circuit Judge