

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

October 2, 2026

Christopher M. Wolpert
Clerk of Court

WILLIAM PAUL ALEXANDER,

Petitioner - Appellant,

v.

FNU LNU, Warden, C.N.M.C.F.;
ATTORNEY GENERAL FOR THE
STATE OF NEW MEXICO,

Respondents - Appellees.

No. 25-2132
(D.C. No. 1:21-CV-00599-MV-DLM)
(D. N.M.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **TYMKOVICH, MATHESON, and PHILLIPS**, Circuit Judges.

William Paul Alexander, a New Mexico state prisoner proceeding pro se, seeks a certificate of appealability (“COA”) to appeal the district court’s denial of his application for a writ of habeas corpus under 28 U.S.C. § 2254. *See* 28 U.S.C. § 2253(c)(1)(A) (requiring a COA to appeal the denial of a § 2254 application). We deny a COA and dismiss this matter.

* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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

I. BACKGROUND

A jury found Mr. Alexander guilty of first-degree murder, conspiracy to commit first-degree murder, kidnapping, and tampering with evidence. He was sentenced to life imprisonment plus 36 years. The New Mexico Supreme Court affirmed his convictions and sentence.

Mr. Alexander sought post-conviction relief in state court by filing a petition for writ of habeas corpus. The trial court denied the petition, and the New Mexico Supreme Court denied review.

Mr. Alexander also filed a pro se § 2254 application and an amended application, presenting 10 claims for relief. After he voluntarily dismissed his unexhausted claims, the assigned magistrate judge issued proposed findings and a recommendation (“PFRD”) that the district court deny relief on the remaining claims. The PFRD, filed on September 30, 2025, warned Mr. Alexander that the failure to file written objections within 14 days of service of the PFRD would waive appellate review. On October 20, 2025, the district court adopted the PFRD and denied the amended § 2254 application, noting that Mr. Alexander had “not filed objections” and there was “nothing in the record indicating that the [PFRD was] not delivered.” *Id.* at 2351. The district court issued a separate final judgment the same day.

On November 3, 2025, Mr. Alexander filed an untitled, one-page document stating that (1) he received the PFRD on October 16, (2) he was “trying to put a response together” but was “running out of time” because he only had “14 day[s] from the 16th,” (3) he “would like appellate review,” and (4) he “object[ed] to all of this and would like

to talk to a good appellate [sic].” R. at 2354. The district court docketed this filing as a notice of appeal.

After this appeal was opened, we issued a show-cause order to Mr. Alexander to address whether he waived his right to appellate review by failing to file objections to the PFRD. He responded, and the issue has been referred to this panel. Mr. Alexander has also filed a combined opening brief and application for a COA (“COA Application”).

II. DISCUSSION

This court has “adopted a firm waiver rule” regarding objections to a magistrate judge’s findings and recommendations. *United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1059 (10th Cir. 1996) (internal quotation marks omitted). To avoid waiving appellate review of factual and legal questions, “a party’s objections to [a] magistrate judge’s report and recommendation must be both timely and specific.” *Id.* at 1060. The objection must be “sufficiently specific to focus the district court’s attention on the factual and legal issues that are truly in dispute.” *Id.* “[W]e apply the firm-waiver rule to pro se litigants, provided they were informed of the time period for objecting and the consequences of failing to object.”¹ *Johnson v. Reyna*, 57 F.4th 769, 778 (10th Cir. 2023) (internal quotation marks omitted). “But we need not apply the firm-waiver rule when the interests of justice so dictate.” *Id.* (internal quotation marks omitted).

We liberally construe a pro se litigant’s filings, but we cannot act as his advocate. *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005). We

¹ As noted, the magistrate judge warned Mr. Alexander about the time to object and the consequences of failing to timely object.

conclude that by failing to file timely and specific objections to the PFRD, Mr. Alexander waived appellate review of the district court's denial of his § 2254 application.

We take as true Mr. Alexander's representation that he did not receive the PFRD until October 16, 2025. Measured from that date, his objections were due on October 30. But he filed no objections by that date. Nor did he ask the district court for an extension of time to file objections.²

Construing Mr. Alexander's notice of appeal as an attempt to file objections to the PFRD, we conclude it was untimely because it was postmarked November 1 and filed on November 3. But even if we considered the notice of appeal as a timely effort to object to the PFRD, Mr. Alexander advanced no specific objections in it—he stated only that he “would like appellate review” and “object[ed] to all of this.” R. at 2354.

Thus, the notice of appeal lacks a sufficiently specific objection to satisfy the requirements of the firm waiver rule. Unless the interests-of-justice exception applies, Mr. Alexander has waived appellate review of the denial of his § 2254 application.

“To determine whether this exception applies, we consider three factors: [1] a pro se litigant's effort to comply, [2] the force and plausibility of the explanation for his

² In his response to this court's show-cause order, Mr. Alexander includes what appears to be a letter to the district court judge stating that (1) he received the PFRD on October 16, (2) he “sent it out before it expired if the 14 days is after I received it,” and (3) he “would like to get 14 extra days to answer all these forms.” Resp. at 3 (capitalization standardized); *see also id.* at 2 (stating he was including “a letter to the judge”) (capitalization standardized). He also stated he was “66, diabetic, blind in 1 eye and doing a dog program.” *Id.* at 3 (capitalization standardized). To the extent this was a belated attempt to seek an extension of time to file objections, he had to seek such relief in the district court.

failure to comply, and [3] the importance of the issues raised.” *Johnson*, 57 F.4th at 778 (brackets in original) (internal quotation marks omitted).³ None of these factors favors excusing Mr. Alexander’s failure to file timely and specific objections. First, his only effort to comply was the generalized, and therefore inadequate, objection in his notice of appeal. Second, he has not explained how his health issues prevented him from filing adequate objections or why he never sought additional time from the district court to do so. Third, in his response to this court’s show-cause order, his COA Application, and his docketing statement, he has advanced only general arguments regarding alleged errors in his criminal trial that do not address the district court’s reasons for denying his § 2254 application.

Alternatively, even if we excused Mr. Alexander’s waiver of appellate review, his arguments are insufficient to show entitlement to a COA. A court may grant a COA “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). This standard requires “showing 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). But as noted, Mr. Alexander has failed to address the reasons the district court denied his § 2254 application. He has also failed to cite the

³ A litigant can also satisfy the interests-of-justice exception by showing plain error. *See Johnson*, 57 F.4th at 778 n.7; *Morales-Fernandez v. INS*, 418 F.3d 1116, 1122 (10th Cir. 2005). But Mr. Alexander does not argue that plain error applies, so we need not consider it. *See Johnson*, 57 F.4th at 778 n.7.

record or any legal authority. He has therefore not only failed to meet the COA standard, *see id.*, but he has waived appellate review through inadequate briefing, *see United States v. Apperson*, 441 F.3d 1162, 1195 (10th Cir. 2006) (appellant waived argument because he “fail[ed] to offer any detailed explanation of how the district court erred”); *see also* Fed. R. App. P. 28(a)(8) (requiring an appellant’s opening brief to contain an “argument, which must contain . . . appellant’s contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies”); *Garrett*, 425 F.3d at 840 (“[T]his court has repeatedly insisted that pro se parties follow the same rules of procedure that govern other litigants.” (internal quotation marks omitted)).

III. CONCLUSION

We deny a COA and dismiss this matter. We grant Mr. Alexander’s motion to proceed on appeal without prepayment of costs or fees.

Entered for the Court

Scott M. Matheson, Jr.
Circuit Judge