FILED
United States Court of Appeals
Tenth Circuit

March 18, 2009

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

ROLAND RUDD, also known as Farrakhan Israel Aziz, Petitioner-Appellant, v. ROGER WERHOLTZ, Secretary of Corrections, State of Kansas; STEPHEN N. SIX, Attorney General of the State of Kansas, Respondents-Appellees.	No. 08-3268 (D.C. No. 5:07-CV-03097-JTM) (D. Kan.)

ORDER DENYING CERTIFICATE OF APPEALABILITY[*]

Before **McCONNELL**, **McKAY**, and **GORSUCH**, Circuit Judges.[**]

Roland Rudd, a Kansas state prisoner, was convicted of sexual assault and sentenced to a term of imprisonment of 272 months. Following the denial of his direct appeals and collateral proceedings in state court, he filed a challenge to his confinement in federal district court pursuant to 28 U.S.C. § 2254, in which he

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[*] This order is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

[**] After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

raised some eighteen separate claims. In a thorough opinion, the district court discussed each claim and denied the petition. Because the district court did not rule on his subsequent request for a certificate of appealability ("COA"), it was deemed denied. *See* 10th Cir. R. 22.1(C).

Mr. Rudd now seeks a COA from this court to permit an appeal of the district court's denial of his § 2254 petition. In order to obtain a COA, a petitioner must make a "substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), such that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Miller-El v. Cockrell*, 537 U.S. 322, 338 (2003) (quotation omitted).

Mindful of the solicitous construction to be afforded Mr. Rudd's *pro se* filings, *Van Deelen v. Johnson*, 497 F.3d 1151, 1153 n.1 (10th Cir. 2007), we nonetheless conclude that no reasonable jurist could doubt the correctness of the district court's disposition. As such, and for substantially the same reasons given by the district court, we deny Mr. Rudd's application for a COA and we dismiss this appeal.

Entered for the Court

Neil M. Gorsuch
Circuit Judge