

July 12, 2011

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

DANNY MERLE BOUZIDEN,

Petitioner-Appellant,

v.

MIKE ADDISON, Warden,

Respondent-Appellee.

No. 11-6063
(D.C. No. 5:10-CV-01140-M)
(W.D. Okla.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **LUCERO, EBEL,** and **GORSUCH,** Circuit Judges.

In January 2008, Danny Merle Bouziden pleaded no contest to multiple counts of child sexual abuse, one count of domestic abuse, and several counts of possession of child pornography. He was sentenced to life imprisonment on each count of child sexual abuse, one year of imprisonment for domestic abuse, and 20 years in prison for each count of possession. Mr. Bouziden timely filed a motion to withdraw his plea and, when the motion was denied, he sought relief under

* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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

Oklahoma's state post-conviction procedures. After that avenue proved unsuccessful, Mr. Bouziden eventually filed a petition for relief under 28 U.S.C. § 2254 in the federal district court. Considering the effect of statutory tolling and Mr. Bouziden's arguments for equitable tolling, the district court dismissed the petition as time-barred under 28 U.S.C. § 2244(d)(1) and declined to issue a certificate of appealability ("COA"). Now in this court, Mr. Bouziden renews his request for a COA.

When the district court dismisses a § 2254 petition on procedural grounds, as it did here, we may issue a COA only if "jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). After reviewing the entire record in this case, we conclude that no reasonable jurist would debate the district court's holding that Mr. Bouziden's petition is time-barred, and for substantially the same reasons given by the district court. Accordingly, Mr. Bouziden's application for a COA and his motion to proceed *in forma pauperis* are denied and this appeal is dismissed.

ENTERED FOR THE COURT

Neil M. Gorsuch
Circuit Judge