

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

May 28, 2014
Elisabeth A. Shumaker
Clerk of Court

NATHANIEL JOHNS,

Petitioner - Appellant,

v.

DAVID R. MCKUNE, Warden,
Lansing Correctional Facility; STATE
OF KANSAS; DEREK SCHMIDT,
Attorney General of the State of
Kansas.

Respondents - Appellees.

No. 13-3289
(D.C. No. 5:12-CV-03037-SAC)
(D. Kansas)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **HARTZ, McKAY** and **MATHESON**, Circuit Judges.

This is a *pro se* § 2254 proceeding. Appellant Nathaniel Johns is incarcerated at the state correctional facility in Lansing, Kansas. In 1984, Appellant was convicted of felony murder, aggravated robbery, and other related charges in a Kansas state court. The state court sentenced him to “life, plus” in prison. The Kansas state court’s judgment in Appellant’s case was affirmed by

* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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

the Kansas Supreme Court in 1985. Appellant filed post-conviction motions in state court in 2003 and 2009, both of which were denied. Appellant had no success appealing those adverse decisions.

In 2012, Appellant filed the § 2254 habeas application underlying this proceeding in the U. S. District Court for the District of Kansas. The district court *sua sponte* challenged the petition as untimely. Appellant filed a response. The district court was not convinced, however, and dismissed the petition as time barred. The district court denied a certificate of appealability. This appeal followed.

Appellant has renewed his request for a COA in this court. Because no reasonable jurist would debate the correctness of the trial court's reasons for dismissing the case, we **DENY** Petitioner's request for a certificate of appealability and **DISMISS** this appeal.

ENTERED FOR THE COURT

Monroe G. McKay
Circuit Judge