

UNITED STATES COURT OF APPEALS  
TENTH CIRCUIT

February 5, 2018

Elisabeth A. Shumaker  
Clerk of Court

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RICHARD McCLOSKEY,

Petitioner - Appellant,

v.

WYOMING ATTORNEY GENERAL,

Respondent - Appellee.

No. 17-8056  
(D.C. No. 1:17-CV-00045-SWS)  
(D. Wyo.)

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**ORDER DENYING CERTIFICATE OF APPEALABILITY\***

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Before **PHILLIPS, McKAY, and McHUGH**, Circuit Judges.

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Petitioner Richard McCloskey seeks a certificate of appealability to appeal the district court's dismissal of his § 2254 habeas corpus petition.

In his habeas petition, Petitioner sought review of various state criminal proceedings against him. These proceedings were either recently decided cases that Petitioner had not appealed in the Wyoming state courts, or ongoing criminal cases in which a final judgment had not yet been entered. The district court thus concluded that the federal habeas petition must be dismissed without prejudice

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\* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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

based on (1) Petitioner's failure to exhaust his state court remedies, *see* 28 U.S.C. § 2254(b)(1)(A); *see also Allen v. Zavaras*, 568 F.3d 1197, 1202 (10th Cir. 2009) (dismissal of a habeas petition is proper if the failure to exhaust is clear from the face of the petition), and (2) the *Younger* abstention doctrine, *see Younger v. Harris*, 401 U.S. 37 (1971).

After thoroughly reviewing Petitioner's brief and the record on appeal, we conclude that reasonable jurists would not debate the correctness of the district court's procedural ruling. *See Slack v. McDaniel*, 529 U.S. 473, 478 (2000). We therefore **DENY** Petitioner's request for a certificate of appealability and **DISMISS** the appeal. Petitioner's motion to proceed *in forma pauperis* on appeal is **GRANTED**.

Entered for the Court

Monroe G. McKay  
Circuit Judge