

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

June 6, 2016

Elisabeth A. Shumaker
Clerk of Court

DONALD JAMES GALBREATH,

Petitioner - Appellant,

v.

ROBERT PATTON, DOC Director,

Respondent - Appellee.

No. 15-7073
(D.C. No. 6:12-CV-00381-RAW-KEW)
(E.D. Okla.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **GORSUCH, BALDOCK, and McHUGH**, Circuit Judges.

Donald Galbreath pleaded guilty to drug-related charges in two separate cases in Oklahoma state court and was sentenced to prison in 2009. Three years later, he filed a federal habeas petition under 28 U.S.C. § 2254. A federal magistrate judge found most of the petition barred by the applicable one year statute of limitations and found no ground existed that might justify statutory or equitable tolling. *See* 28 U.S.C. § 2244(d). As for Mr. Galbreath's remaining (and arguably timely) complaints, which concern his termination from drug court and the assistance he received from appellate counsel, the magistrate judge found

* This order is not binding precedent except under the doctrines of law of the case, *res judicata*, and collateral estoppel.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

them without merit. The district court later agreed with the magistrate judge's analysis in full and denied Mr. Galbreath's application for a certificate of appealability (COA).

Mr. Galbreath now renews before us his request for a COA so that he might appeal the district court's order. As best we can tell, though, he challenges only the disposition of those claims the magistrate judge and district court held time-barred. We may issue a COA only if the petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). And where, as here, the district court dismissed claims as untimely, that means the petitioner must "show that jurists of reason would find it debatable whether his claim[s] w[ere] time-barred." *Garcia v. Archuleta*, 253 F. App'x 802, 803 (10th Cir. 2007) (internal quotation marks omitted). Based on our independent review of the record in this case, and affording solicitous consideration to Mr. Galbreath's pro se filings, see *Van Deelen v. Johnson*, 497 F.3d 1151, 1153 n.1 (10th Cir. 2007), we find no reason to question the opinions offered by the magistrate judge and district court. Indeed, we adopt their thoughtful analyses as our own as we see nothing we might profitably add to them. Mr. Galbreath's request for a COA is denied and this appeal is dismissed.

ENTERED FOR THE COURT

Neil M. Gorsuch
Circuit Judge