

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 09-11649
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT NOV 16, 2010 JOHN LEY CLERK

D. C. Docket No. 08-00033-CV-1

LINDSEY NELSON, JR.,

Petitioner-Appellant,

versus

DAVID L. FRAZIER,
Warden,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Georgia

(November 16, 2010)

Before BARKETT, MARCUS and PRYOR, Circuit Judges.

PER CURIAM:

Lindsey Nelson Jr., a Georgia prisoner, appeals pro se the denial of his

petition for a writ of habeas corpus. 28 U.S.C. § 2254. We granted a certificate of appealability to resolve “[w]hether the district court erred in finding that Nelson’s claim of an unlawful sentence was procedurally defaulted” when the state court ruled that “the claim was procedurally defaulted or barred by res judicata.” In his brief, Nelson concedes that his claim of an unlawful sentence is procedurally defaulted, “so that issue has been abandoned and is no longer before us.” Pugh v. Smith, 465 F.3d 1295, 1298 (11th Cir. 2006). Nelson instead challenges his conviction and sentence, but we will not address his arguments because they are outside the scope of the certificate of appealability. Rhode v. United States, 583 F.3d 1289, 1291 (11th Cir. 2009). We affirm the denial of Nelson’s petition.

AFFIRMED.