

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LOWELL P. POULSON,

Petitioner,

v.

**WARDEN, ROSS CORRECTIONAL
INSTITUTION,**

Respondent.

**CASE NO. 2:11-CV-1067
JUDGE ALGENON L. MARBLEY
Magistrate Judge Kemp**

OPINION AND ORDER

On June 24, 2013, final judgment was entered dismissing the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter now is before the Court on Petitioner's notice of appeal and request for a certificate of appealability. For the reasons that follow, Petitioner's request for a certificate of appealability is **DENIED**.

Petitioner asserts that he was denied a fair trial based on a constitutionally unreliable witness identification of him as one of the armed robbers of a Donatos Pizza and because the evidence was insufficient to sustain his convictions. The Court dismissed both of these claims on the merits.

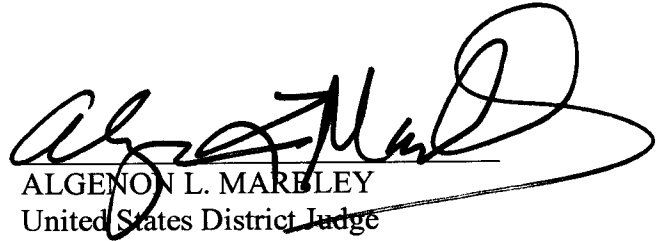
When a claim has been denied on the merits, a certificate of appealability may issue only if the petitioner "has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This standard is a codification of *Barefoot v. Estelle*, 463 U.S. 880 (1983). *Slack v. McDaniel*, 529 U.S. 473, 484. To make a substantial showing of the denial of a constitutional right, a petitioner must show

that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were "adequate to deserve

encouragement to proceed further.' ” *Barefoot*, 463 U.S ., at 893,
and n. 4....

Id. Petitioner has failed to meet this standard here. His request for a certificate of appealability
therefore is **DENIED**.

IT IS SO ORDERED.



ALGENON L. MARBLEY
United States District Judge