

December 12, 2014

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

BOBBY GREEN,

Petitioner - Appellant,

v.

ROBERT C. PATTON, Director DOC,

Respondent - Appellee.

No. 14-6192
(D.C. No. 5:13-CV-00756-M)
(W.D. Okla.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **GORSUCH, MURPHY, and HOLMES**, Circuit Judges.

After pleading guilty to state drug charges Bobby Green won a partially suspended sentence and probation. Soon, though, the state alleged that Mr. Green had committed more drug crimes, violating the terms of his probation and warranting revocation of his suspended sentence. Mr. Green sought to avoid this result, arguing that the government's evidence against him stemmed from a Fourth Amendment violation and should be suppressed. The state court disagreed and proceeded to revoke Mr. Green's suspended sentence. After failing to overturn this result on appeal in state court, Mr. Green sought habeas corpus

* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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

relief in federal district court under 28 U.S.C. § 2254. But that court eventually denied Mr. Green’s requested relief, too, as well as his later request for a certificate of appealability.

Mr. Green now renews his COA request before us, but before we may grant it he must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253. And that he has not done. As the district court explained, the Oklahoma courts afforded Mr. Green a full and fair opportunity to litigate his Fourth Amendment claim — and in those circumstances federal courts are precluded from granting federal habeas relief on Fourth Amendment claims. *See Stone v. Powell*, 428 U.S. 465, 494 (1976). Mr. Green separately contends that the Oklahoma trial court abused its discretion when it decided to revoke his suspended sentence in full rather than in part. But Mr. Green failed to pursue this argument in district court. Neither, in any event, does he seek to explain to us how the state court’s actions might violate the federal Constitution or laws, prerequisites to federal habeas relief.

Mr. Green’s request for a COA is denied, as is his motion to proceed in forma pauperis, and this appeal is dismissed. Mr. Green is reminded that he must pay the filing fee in full.

ENTERED FOR THE COURT

Neil M. Gorsuch
Circuit Judge