

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

August 9, 2010

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 10-70001  
\_\_\_\_\_

FRANK MARTINEZ GARCIA,

Petitioner - Appellant

v.

RICK THALER, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,  
CORRECTIONAL INSTITUTIONS DIVISION,

Respondent - Appellee

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:08-CV-62  
\_\_\_\_\_

Before HIGGINBOTHAM, CLEMENT, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

After reviewing the record and the parties' submissions, we conclude that Frank Martinez Garcia has failed to make a substantial showing of the denial of a constitutional right, and – for essentially the reasons stated by the district court – we deny his request for a certificate of appealability (COA) on all issues raised therein. Judge Rodriguez's careful opinion explains why reasonable

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

jurists will not disagree. The issues presented do not merit encouragement to proceed further.<sup>1</sup>

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<sup>1</sup>See *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003).