

United States Court of Appeals
For the Eighth Circuit

No. 16-3484

Billy Ray Turner, Jr.

Petitioner - Appellant

v.

Jay Cassady

Respondent - Appellee

Appeal from United States District Court
for the Eastern District of Missouri - St. Louis

Submitted: September 5, 2019

Filed: September 12, 2019

[Unpublished]

Before COLLOTON, ERICKSON, and GRASZ, Circuit Judges.

PER CURIAM.

Billy Turner, who was sentenced to 49 years in prison after a Missouri jury found him guilty of first-degree sodomy and incest, appeals following the district

court's¹ denial of his 28 U.S.C. § 2254 petition. During the section 2254 proceedings, Turner claimed that he was actually innocent and asserted a related prosecutorial-misconduct claim. On appeal, Turner has moved to submit supplemental briefing, to strike the State's brief, and to amend his motion to strike.

After careful de novo, we conclude that Turner failed to satisfy the standard for an actual-innocence claim, and that the district court thus did not err in denying his section 2254 petition. See McCoy v. Norris, 125 F.3d 1186, 1190 (8th Cir. 1997) (standard of review); see also Schlup v. Delo, 513 U.S. 298, 315-29 (1995) (to establish gateway actual-innocence claim, petitioner must show that, in light of all evidence, it is more likely than not that no reasonable juror would have convicted him given new, reliable evidence). Accordingly, we affirm. We also grant Turner's motions to file supplemental briefs and to amend his motion to strike, and we deny his amended motion to strike.

¹The Honorable E. Richard Webber, United States District Judge for the Eastern District of Missouri, adopting the report and recommendations of the Honorable Nannette A. Baker, United States Magistrate Judge for the Eastern District of Missouri.