

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

RYAN WILLIS,

Petitioner,

-vs-

Case No. 2:08-cv-516-FtM-29SPC

Case No. 2:05-cr-112-FTM-29SPC

UNITED STATES OF AMERICA,

Respondent.

OPINION AND ORDER

On March 6, 2009, the Court entered an Opinion and Order (Doc. #15) granting petitioner's request for additional time to file an application for certificate of appealability, contained in the Notice of Appeal (Doc. #13). On March 13, 2009, petitioner filed an Application for Certificate of Appealability From the U.S. District Court (Doc. #16).

Under 28 U.S.C. § 2253(c)(1), an appeal cannot be taken from a final order in a habeas proceeding unless a certificate of appealability issues. The decision to issue a certificate of appealability requires "an overview of the claims in the habeas petition and a general assessment of their merits." Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). Specifically, where a district court has rejected a prisoner's constitutional claims on the merits, the petitioner must demonstrate that reasonable jurists

would find the district court's assessment of the constitutional claims debatable or wrong. See Slack v. McDaniel, 529 U.S. 473, 484 (2000); Peoples v. Haley, 227 F.3d 1342 (11th Cir. 2000). When the district court has rejected a claim on procedural grounds, the petitioner must show that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. Slack, 529 U.S. at 484; Franklin v. Hightower, 215 F.3d 1196, 1199 (11th Cir. 2000) (per curiam), cert. denied, 121 S. Ct. 1738 (2001). "This threshold inquiry does not require full consideration of the factual or legal bases adduced in support of the claims." Miller-El v. Cockrell, 537 U.S. at 336.


On January 7, 2009, the Court entered an Opinion and Order (Doc. #11) denying petitioner's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, and to Correct, Sentence By a Person in Federal Custody as to all claims. Judgment (Doc. #12) was entered on the same day. Upon review, the Court finds Petitioner has failed to show that jurists of reason would find the Court's assessment of the constitutional claim debatable or wrong or that the Court was incorrect in its procedural rulings.

Accordingly, it is now

ORDERED:

Petitioner's Application for Certificate of Appealability From
the U.S. District Court (Doc. #16) is **DENIED**.

DONE AND ORDERED at Fort Myers, Florida, this 16th day of
March, 2009.


JOHN E. STEELE
United States District Judge

Copies:
All Parties of Record

United States Court of Appeals
Eleventh Circuit
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Atlanta, GA 30303