## UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA Tampa Division

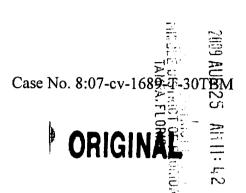
ROBERT A. STIRES,

Petitioner-Appellant,

versus

WALTER A. McNEIL, et. al.,

Respondents-Appellees.



## PETITIONER'S MOTION FOR CERTIFICATE OF APPEALABILITY

COMES NOW the petitioner-appellant, Robert A Stires, *in propria persona*, and respectfully moves this Court for the entry of the certificate of appealability ("COA") required by 28 U.S.C. § 2253(c)(1)(A) for him to appeal its August 3, 2009 order (Doc. 24) summarily denying his *pro se* petition for writ of *habeas corpus* under 28 U.S.C. § 2254 (Doc. 1) *without* the benefit of an evidentiary hearing (Doc. 24 at 1-42), and Stires says the following in support thereof:

- 1. First, after reviewing Grounds One through Nineteen of Stires' habeas corpus petition (Doc. 1 at 5-33), reasonable jurists "could" debate whether he has made a substantial showing that a number of his constitutional rights were violated. *Slack v. McDaniel*, 529 U.S. 473, 483-84, 120 S.Ct. 1595, 1603-4 [5], 146 L.Ed.2d 542 (2000).
- 2. Next, after reviewing Grounds One through Nineteen of Stires' habeas corpus petition (Doc. 1 at 5-33), what the respondents offered up in their supplemental response to his habeas corpus petition (Doc. 17 at 1-24), and everything he countered with in his supplemental reply (Doc. 23 at 1-37), reasonable jurists also "could" debate whether this Court's August 3,

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2009 order (doc. 24 at 1-42) should have resolved Stires' claims (Doc. 1 at 5-33) in a different

manner. Slack, 529 U.S. at 483-84, 120 S.Ct. at 1603-4 [5].

3. Finally, after reviewing Grounds One through Nineteen of Stires' habeas corpus

petition (Doc. 1 at 5-33), what the respondents tendered in their supplemental response to his

habeas corpus petition (Doc. 17 at 1-24), and the whole kit and caboodle that he came back with

in his supplemental reply (Doc. 23 at 1-37), reasonable jurists likewise "could" debate whether

the issues presented by this Court's August 3, 2009 order (Doc. 24 at 1-42) are "adequate" to

deserve some encouragement to proceed further. Slack, 529 U.S. at 483-84, 120 S.Ct. at 1603-4

[5].

4. Thus, Stires believes that this Court ought to issue the COA required by §

2253(c)(1)(A) for him to appeal its August 3, 2009 order (Doc. 24) summarily denying his

habeas corpus petition (Doc. 1) without the benefit of an evidentiary hearing (Doc. 24 at 1-42).

Miller-El v. Cockerell 537 U.S. 322, 327, 123 S.Ct. 1029, 1039 [9], 154 L.Ed.2d 931 (2003).

WHEREFORE, Stires prays that this Court will enter an order granting him the COA

required by § 2253(c)(1)(A) for him to appeal its August 3, 2009 order (Doc. 24) summarily

denying his habeas corpus petition (Doc.1) without the benefit of an evidentiary hearing. (Doc.

24 at 1-42). Amen. So mote it be.

Respectfully submitted,

804247

ROBERT A. STIRES #804247

Avon Park Correctional Institution

P.O. Box 1100

Avon Park, FL 33826-1100

Petitioner-Appellant In Propria Persona

## **CERTIFICATE OF SERVICE**

ROBERT A. STIRES