

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

DAVID W. JONES

CIVIL ACTION

VERSUS

NO. 11-2382

SANDY MCCAIN, WARDEN

SECTION "R"(6)

ORDER

Rule 11 of the Rules Governing Section 2254 Proceedings provides that “[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. Before entering the final order, the court may direct the parties to submit arguments on whether a certificate should issue.” **Rules Governing Section 2254 Proceedings**, Rule 11(a). A court may only issue a certificate of appealability if the petitioner makes “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); **Rules Governing Section 2254 Proceedings**, Rule 11(a) (noting that § 2253(c)(2) supplies the controlling standard). In *Miller-El v. Cockrell*, the Supreme Court held that the “controlling standard” for a certificate of appealability requires the petitioner to show “that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented [are] ‘adequate to deserve encouragement to proceed further.’” 537 U.S. 322, 336 (2003). With respect to claims denied on procedural grounds, the petitioner must make a two-part showing: (1) that “jurists of reason would find it debatable whether the district court was correct in its procedural ruling,” and (2) that “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right.” *Johnson v. Quarterman*, 483 F.3d 278, 284 (5th Cir. 2007) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

Here, Jones has not made a substantial showing of the denial of a constitutional right. Further, the issues would not engender debate among reasonable jurists.

Accordingly,

The Court will not issue a certificate of appealability.

New Orleans, Louisiana, this 21st day of March, 2012.



SARAH S. VANCE
UNITED STATES DISTRICT JUDGE