

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

MARK MORRIS

CIVIL ACTION

VERSUS

BURL CAIN, ET AL

NO. 09-648-JJB-CN

**RULING**

The petitioner has filed a Notice of Appeal (R. Doc. 30), which this Court interprets as an application for a certificate of appealability pursuant to 28 U.S.C. § 2253(c), and a Motion for Leave to Appeal In Forma Pauperis (R. Doc. 32). Section 2253(c) provides:

- (1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from —
  - (A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or
  - (B) the final order in a proceeding under section 2255.
- (2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

Under this statute, in order to obtain a certificate of appealability, the petitioner must make a substantial showing of the denial of a federal right. 28 U.S.C. § 2253(c)(2). In addition, he must also show that the issues which he presents are debatable among jurists of reason, that a court could resolve these issues in a different

manner, or that the questions presented are of sufficient import to warrant encouragement to proceed further. *Barefoot v. Estelle*, 463 U.S. 880, 103 S.Ct. 3383, 77 L.Ed.2d 1090 (1983); *Sawyers v. Collins*, 986 F.2d 1493 (5<sup>th</sup> Cir. 1993), *cert. denied*, 508 U.S. 933, 113 S.Ct. 2405, 124 L.Ed.2d 300 (1993).

Upon a review of this matter, the Court finds that the petitioner has not made the requisite substantial showing of the denial of a federal right, and the Court does not believe that the issues in this case are likely to be debatable among jurists of reason such that a court could resolve this matter differently. Accordingly, the petitioner's Notice of Appeal (R. Doc. 30), which has been interpreted as an application for a certificate of appealability, and his Motion for Leave to Appeal In Forma Pauperis (R. Doc. 32), are hereby denied.

Baton Rouge, Louisiana, this 30<sup>th</sup> day of JANUARY, 2012.

  
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**JAMES J. BRADY**  
**UNITED STATES DISTRICT JUDGE**