

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

KYLE SPRING (#555065)

VERSUS

CIVIL ACTION

SECRETARY, LOUISIANA  
DEPARTMENT OF CORRECTIONS, ET AL

NO. 11-308-BAJ-CN

**RULING ON MOTION FOR CERTIFICATE OF APPEALABILITY**

This matter is before the Court on a motion by petitioner for a certificate of appealability (“COA”). “A COA should issue if the applicant has ‘made a substantial showing of the denial of a constitutional right,’ 28 U.S.C. § 2253(c)(2), which [courts] have interpreted to require that the ‘petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.’ *Tennard v. Dretke*, 542 U.S. 274, 282, 124 S.Ct. 2562, 2569, 159 L.Ed.2d 384 (U.S. 2004) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484, 120 S.Ct. 1595, 146 L.Ed.2d 542).

The Court, having separately issued a final order in connection with the above captioned case in which detention complained of arises out of process issued by a State court, or the final order in a proceeding under § 2255, and having considered the record in the case and the requirements of 28 U.S.C. § 2253 and Rule 22(b), Federal Rules of Appellate Procedure, and the motion by petitioner for a certificate of appealability (doc. 14), concludes that a reasonable jurist could debate the district court’s assessment of whether petitioner was afforded a fair hearing on his motion

for a new trial and whether that issue was “fairly presented” to the highest state court.

Accordingly, the motion by petitioner, Kyle Spring, for a certificate of appealability is **GRANTED** insofar as petitioner may seek to appeal the Court’s conclusions concerning whether petitioner was afforded a full and fair hearing on his motion for a new trial and whether the issue was fairly presented to the Louisiana Supreme Court.

Baton Rouge, Louisiana, May 4, 2012.

A handwritten signature in black ink, reading "Brian A. Jackson", written over a horizontal line.

BRIAN A. JACKSON, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA