

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

_____)	
FRANK ROBINSON,)	
)	
Petitioner,)	
)	Civil Action No.
v.)	11-10541-FDS
)	
DUANE MACEACHERN,)	
)	
Respondent.)	
_____)	

ORDER ON CERTIFICATE OF APPEALABILITY

SAYLOR, J.

On January 29, 2013, this Court issued an order dismissing the petition for a writ of habeas corpus. The basis for the Court’s ruling is provided in its Memorandum and Order dismissing the petition.

To appeal the final order in a proceeding instituted under 28 U.S.C. § 2254, the petitioner must first obtain a Certificate of Appealability (“COA”) from a circuit justice or a district court. *See* 28 U.S.C. § 2253(c). A COA will issue only if the petitioner “has made a substantial showing of the denial of a constitutional right.” § 2253(c)(2). That standard is satisfied by “demonstrating that jurists of reason could disagree with the district court’s resolution of [petitioner’s] constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

Petitioner claimed violations of his constitutional rights to a fair trial, due process, equal protection, and effective assistance of counsel. As specific grounds for habeas relief, he

contended that (1) the Commonwealth used its peremptory challenges in a racially discriminatory manner; (2) his trial counsel's failures to object to the Commonwealth's use of peremptory challenges and to join his co-defendant's counsel's untimely objection constituted ineffective assistance of counsel; and (3) his appellate counsel's failure to challenge the judge's ruling on the objection and failure to raise the peremptory-challenge argument on appeal also constituted ineffective assistance of counsel. The Court found his claims all to be procedurally defaulted.

The Court now finds that petitioner has not presented any colorable claim as to which a reasonable jurist could disagree with the Court's conclusion. Accordingly, the Court finds that the issuance of a COA is not warranted.

For the foregoing reasons, a certificate of appealability is DENIED as to all of petitioner's claims.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: January 29, 2013