

erred in not instructing the jury that an honest and reasonable belief of entitlement to allegedly stole property is a defense to the crime of larceny of a motor vehicle. This Court concluded, in denying the writ, that the state-court decision on the right to counsel claim was not contrary to, nor an unreasonable application of, Supreme Court precedent. The Court also concluded that it was barred from considering petitioner's two state-law claims in a habeas corpus petition.

The standard in assessing whether to issue a COA is more liberal, and petitioner need not show that the appeal will succeed. *See Miller-El*, 537 U.S. at 337. Although the question is close, the Court concludes that jurists of reason could disagree with the resolution of petitioner's right to counsel claim and the issues presented are adequate to deserve encouragement to proceed further. *See id.* at 327. Accordingly, a COA will issue as to petitioner's claim based on an insufficient waiver of the right to counsel.

However, the standard has not been satisfied as to petitioner's state-law claims, as the Court concludes that jurists of reason could not disagree with the resolution of those claims and would not conclude that the issues presented are adequate to deserve encouragement to proceed further.

In accordance with the foregoing, a certificate of appealability is GRANTED as to petitioner's right to counsel claim, and otherwise DENIED.

So Ordered.

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

Dated: March 13, 2014