

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MICHAEL DEGRAFFINREID,

Petitioner,

Case Number: 2:04-CV-73732

v.

HON. JOHN CORBETT O'MEARA

BLAINE C. LAFLER,

Respondent.

OPINION AND ORDER DENYING CERTIFICATE OF APPEALABILITY

Michigan prisoner Michael Degraffinreid filed a habeas corpus petition under 28 U.S.C. § 2254, raising five separate claims for habeas corpus relief: right to public trial violated; ineffective assistance of counsel; defective burden of proof instruction; right to present a defense violated; and insufficient evidence presented. The Court denied Petitioner's claims for relief on all counts, determining that the claims lacked merit and entered a judgment against Petitioner.

Federal Rule of Appellate Procedure 22 provides that an appeal may not proceed unless a certificate of appealability (COA) is issued under 28 U.S.C. § 2253. A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Courts must either issue a certificate of appealability indicating which issues satisfy the required showing or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3); Fed. R. App. P.

22(b); *In re Certificates of Appealability*, 106 F.3d 1306, 1307 (6th Cir. 1997). To receive a certificate of appealability, “a petitioner must 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 were adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 336, 123 S. Ct. 1029, 154 L. Ed.2d 931 (2003) (internal quotes and citations omitted).

In denying the petition for a writ of habeas corpus, the Court determined that the state court had reasonably analyzed Petitioner’s claims concerning his right to a public trial, ineffective assistance of counsel, the right to present a defense, and sufficiency of the evidence. The Court also determined that Petitioner’s jury instruction claim was procedurally defaulted. The Court now finds that reasonable jurists could not debate that this Court correctly denied each of Petitioner’s claims. Therefore, the Court will deny the petitioner a certificate of appealability.

Accordingly, it is ORDERED that the certificate of appealability is DENIED.

s/John Corbett O’Meara
United States District Judge

Date: May 20, 2011

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, May 20, 2011, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager