

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FERNANDO ROBERSON,

Petitioner,

v.

CASE NO. 07-13388
HONORABLE PATRICK J. DUGGAN

BLAINE LAFLER,

Respondent.

**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

At a session of said Court, held in the U.S. District
Courthouse, Eastern District
of Michigan on July 30, 2009.

PRESENT: HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Petitioner Fernando Roberson (“Petitioner”) filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, which this Court subsequently denied on July 22, 2009. Before Petitioner can appeal this Court’s decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b). 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).

When a federal district court rejects a habeas claim on the merits, the substantial showing threshold is met if the petitioner demonstrates “that reasonable jurists would find the district court’s assessment of the constitutional claim debatable or wrong.” *Slack v.*

McDaniel, 529 U.S. 473, 484, 120 S. Ct. 1595, 1604 (2000). “A petitioner satisfies this standard by demonstrating that . . . jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327, 123 S. Ct. 1029, 1034 (2003). In applying this standard, a district court may not conduct a full merits review, but must limit its examination to a threshold inquiry into the underlying merit of the petitioner’s claims. *Id.* at 336-37.

In his habeas petition, Petitioner asserted that the trial court erred in denying his motion to withdraw his guilty plea based on incompetency and that his trial counsel rendered ineffective assistance in failing to seek a competency hearing. The Court concludes that reasonable jurists would not find its resolution of these issues debatable or wrong. Petitioner therefore fails to make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Accordingly, the Court **DENIES** Petitioner a certificate of appealability.

SO ORDERED.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Fernando Dion Roberson, #254992
St. Louis Correctional Facility
8585 N. Croswell Road
St. Louis, MI 48880

Brian O. Neil, Esq.