

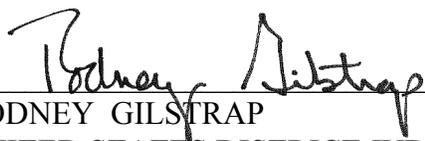
findings and conclusions as those of the Court. It is accordingly

ORDERED that the Respondent's motion to dismiss is **GRANTED** and this petition for writ of habeas corpus is **DISMISSED** as barred by the applicable statute of limitations.

Additionally, the Court finds that Petitioner is not entitled to a certificate of appealability. An appeal from a judgment denying post-conviction collateral relief may not proceed unless a judge issues a certificate of appealability. *See* 28 U.S.C. § 2253. The standard for a certificate of appealability requires the Petitioner to make a substantial showing of the denial of a federal constitutional right. *See Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); *Elizalde v. Dretke*, 362 F.3d 323, 328 (5th Cir. 2004). To make a substantial showing, the Petitioner need not establish that he would prevail on the merits. Rather, he must demonstrate that the issues are subject to debate among jurists of reason, that a court could resolve the issues in a different manner, or that the questions presented are worthy of encouragement to proceed further. *See Slack*, 529 U.S. at 483-84. Any doubt regarding whether to grant a certificate of appealability should be resolved in favor of the Petitioner, and the severity of the penalty may be considered in making this determination. *See Miller v. Johnson*, 200 F.3d 274, 280-81 (2000).

In this case, Petitioner has not shown that the issue of whether the current petition is barred by the applicable statute of limitations is subject to debate among jurists of reason, and the questions presented are not worthy of encouragement to proceed further. Therefore, Petitioner has failed to make a sufficient showing to merit the issuance of a certificate of appealability. Accordingly, a certificate of appealability will not be issued.

So ORDERED and SIGNED this 20th day of November, 2017.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE