

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**BILLY JOE DUKE,**

**Movant,**

v.

**UNITED STATES OF AMERICA,**

**Respondent.**

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**CIVIL NO. 3:20-CV-2785-D  
(CRIMINAL NO. 3:18-CR-006-D-23)**

**ORDER**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. Movant filed objections, and the undersigned district judge has made a *de novo* review of those portions of the proposed findings, conclusions and recommendation to which objection was made. The objections are overruled, and the court adopts the findings, conclusions, and recommendation of the United States Magistrate Judge.

Considering the record in this case and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge’s findings, conclusions, and recommendation filed in this case in support of its finding that the movant has failed to show (1) that reasonable jurists would find this court’s “assessment of the constitutional claims debatable or wrong,” or (2) that reasonable jurists would find “it debatable whether the petition states a valid claim of the denial of a constitutional right” and “debatable whether [this court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S.473, 484 (2000).

If movant files a notice of appeal,

( ) movant may proceed *in forma pauperis* on appeal.

(X) movant must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

**SO ORDERED.**

January 10, 2022.

  
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SIDNEY A. FITZWATER  
SENIOR JUDGE