

Accordingly, the Court **ACCEPTS** the findings, conclusions, and recommendation of the United States Magistrate Judge.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 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 to the extent one is required to appeal in this case. 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 Padilla has failed to show that reasonable jurists would find "it debatable whether the [construed] petition states a valid claim of the denial of a constitutional right" or "debatable whether [this Court] was correct in its procedural ruling."²

But, insofar as Padilla does appeal, the Court prospectively **DENIES** Padilla leave to appeal *in forma pauperis* and **CERTIFIES**, under 28 U.S.C. § 1915(a)(3), and as fully explained in the applicable findings, conclusions, and recommendation that any appeal would not be taken in good faith.

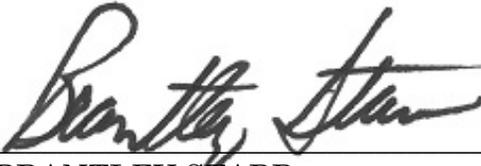
Petitioner may challenge this finding under *Baugh v. Taylor*³ by filing a motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of this order.⁴

² *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

³ 117 F.3d 197 (5th Cir. 1997),

⁴ *Cf. Dobbins v. Davis*, 764 F. App'x 433, 434 (5th Cir. 2019) (per curiam) (applying *Baugh* to state prisoner's appeal in federal habeas action).

IT IS SO ORDERED this 6th day of May, 2022.



BRANTLEY STARR
UNITED STATES DISTRICT JUDGE