

UNITED STATES COURT OF APPEALS

JUL 3 2001

TENTH CIRCUIT

PATRICK FISHER
Clerk

MICHAEL STARNES,

Petitioner-Appellant,

v.

JOE WILLIAMS, Warden, Lea County
Correctional Facility; ATTORNEY
GENERAL FOR THE STATE OF
NEW MEXICO,

Respondents-Appellees.

No. 00-2265
(D.C. No. CIV-99-910-MV/DJS)
(New Mexico)

ORDER AND JUDGMENT*

Before **SEYMOUR, McKAY**, and **BRORBY**, Circuit Judges.

Michael Ray Starnes, appearing *pro se*, appeals from the denial of his petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, and seeks a

*After examining appellant's brief and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2) and 10th Cir. R. 34.1(G). The case is therefore submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, or collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

certificate of appealability, *see* 28 U.S.C. § 2253(c)(1)(A). We deny his request for the certificate and dismiss his appeal.

Mr. Starnes pled guilty in state court to trafficking in cocaine and conspiracy to commit trafficking. In his plea agreement, Mr. Starnes acknowledged that he violated the terms of his probation in another drug-related case. After adjusting Mr. Starnes' sentence downward by six years because of his age and drug addiction, the court sentenced him to 12 years on the trafficking charge, and to 9 years suspended on the conspiracy charge. Following his conviction, Mr. Starnes filed an unsuccessful direct appeal. He was also unsuccessful in his state court habeas petition, and the New Mexico Supreme Court denied his petition for certiorari. He then filed for habeas relief in federal district court, which was denied.

In his appeal to this court, Mr. Starnes raises four issues for our consideration. He argues his right to a speedy trial was denied, there was insufficient evidence to sustain his conviction, he lacked the requisite mens rea to be convicted of trafficking, and he was denied the effective assistance of counsel.

Having reviewed the entire record, we are convinced the opinion of the magistrate judge, adopted by the district court, contains a reasoned and accurate analysis of Mr. Starnes' claims. The magistrate judge analyzed in detail each of the claims Mr. Starnes presented, and concluded under the relevant legal

standards for each that his argument was insufficient. We emphasize that the magistrate judge found Mr. Starnes' guilty plea to be voluntary, noting that "given [Mr. Starnes'] experience with plea agreements and the substantial benefit brought hi[m] by this one, this Court does not find that his plea was involuntary or unknowing." Rec., doc. 15, at 7. We are not persuaded the district court erred in denying Mr. Starnes' petition.

Because Mr. Starnes has not "made a substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), we **DENY** his request for a certificate of appealability and **DISMISS** his appeal.

ENTERED FOR THE COURT

Stephanie K. Seymour
Circuit Judge