

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

**NOV 16 2001**

**PATRICK FISHER**  
Clerk

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DARYL L. KINGSOLVER,

Petitioner-Appellant,

v.

CHARLES RAY; ATTORNEY  
GENERAL OF THE STATE OF  
COLORADO,

Respondents-Appellees.

No. 01-1115  
(D.C. No. 00-D-1102)  
(D. Colo.)

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**ORDER AND JUDGMENT** \*

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Before **KELLY**, **BALDOCK**, and **LUCERO**, Circuit Judges.

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After examining the briefs and 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); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

Daryl Kingsolver, a state prisoner convicted on two counts of sexual assault, seeks a certificate of appealability (COA) to appeal the district court's denial of his habeas corpus petition. To obtain a COA, he must make "a substantial showing of the denial of a constitutional right." *See* 28 U.S.C. § 2253(c).

Kingsolver alleges various constitutional violations arising from his convictions. This court has reviewed his request for a COA, his appellate brief, the district court's order, and the entire record before us. Our review convinces us that Kingsolver's § 2254 petition is not deserving of further proceedings, debatable among jurists of reason, or subject to different resolution on appeal. His request for a COA is DENIED. His motion for leave to proceed in forma pauperis is GRANTED. The motion to file an expanded brief is DENIED. This appeal is accordingly DISMISSED.

Entered for the Court

Paul J. Kelly, Jr.  
Circuit Judge