

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

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**OCT 17 2001**

**PATRICK FISHER**  
Clerk

JAMES EUGENE PUNCHES,

Petitioner-Appellant,

v.

GARY STARBUCK, Wyoming  
Department of Corrections Honor  
Farm Superintendent, in his official  
capacity; and ATTORNEY GENERAL  
OF THE STATE OF WYOMING,

Respondents-Appellees.

No. 01-8038  
(D.C. No. 99-CV-62-B)  
(D. Wyoming)

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**ORDER AND JUDGMENT\***

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

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

The underlying petition for habeas corpus from a state conviction was filed four days after the expiration of the statute of limitations established by the AEDPA. The trial court carefully reviewed the procedural sequence as it applied the AEDPA to the facts of this case. With a well-reasoned opinion, it dismissed the petition as time-barred. The trial court denied a certificate of appealability.

Petitioner has requested a certificate of appealability from this court. Appeal is not warranted when the district court correctly invokes a procedural bar to deny a habeas petition because “a reasonable jurist could not conclude either that the district court erred in dismissing the petition or that the petitioner should be allowed to proceed further.” Slack v. McDaniel, \_\_\_ U.S. \_\_\_, 120 S. Ct. 1595, 1604 (2000). In this case, the correctness of the trial court’s determination is not debatable among jurists of reason.

The petition for a certificate of appealability is DENIED, and the appeal is DISMISSED.

Entered for the Court

Monroe G. McKay  
Circuit Judge