

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

FEB 4 2003

PATRICK FISHER
Clerk

MARVIN REDDISH,

Petitioner - Appellant,

v.

HANK GALETKA, Warden,

Respondent - Appellee.

No. 02-4154

D.C. No. 2:02-CV-594-G

(D. Utah)

ORDER AND JUDGMENT*

Before **KELLY, McKAY, and MURPHY**, Circuit Judges.

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.

Marvin Reddish, the *pro se* petitioner in this case, seeks a certificate of appealability (“COA”) so he can appeal the district court’s denial of his 28 U.S.C. § 2254 petition. *See* 28 U.S.C. § 2253(c)(1)(A) (providing that no appeal

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata and collateral estoppel.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

may be taken from the denial of a § 2254 petition unless the petitioner first obtains a COA). Reddish is not entitled to a COA unless he can make a “substantial showing of the denial of a constitutional right.” *Id.* § 2253(c)(2). Reddish can make this showing by demonstrating that the issues raised are debatable among jurists, a court could resolve the issues differently, or that the questions presented deserve further proceedings. *See Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000).

This court has read Reddish’s request for a COA and accompanying brief and has conducted a *de novo* review of the district court’s order and the entire record on appeal. That *de novo* review clearly demonstrates the district court’s dismissal of Reddish’s § 2254 petition is not deserving of further proceedings or subject to a different resolution on appeal. Accordingly, this court **denies** Reddish’s request for a COA and **dismisses** this appeal.

ENTERED FOR THE COURT

Michael R. Murphy
Circuit Judge