

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

**June 17, 2005**

**PATRICK FISHER**  
Clerk

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DARIUS LAMAR HENDRICKS,  
Petitioner-Appellant,

v.

RANDALL G. WORKMAN,  
Respondent-Appellee.

No. 04-7120  
(D.C. No. 01-CV-361-P)  
(E.D. Oklahoma)

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**ORDER**

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Before **EBEL**, **McKAY**, and **HENRY**, Circuit Judges.

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After examining Petitioner'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)(c); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

This is a *pro se* 28 U.S.C. § 2254 prisoner appeal. Petitioner was convicted of first degree murder in Oklahoma state court. Subsequently, Petitioner filed a § 2254 petition for habeas corpus relief with the United States District Court for the Eastern District of Oklahoma. Petitioner argued at the district court and here on appeal an entitlement to habeas corpus relief based on alleged (1) jury misconduct, (2) presentation of inflammatory evidence, and (3) insufficient

evidence to support his conviction.

The district court adopted the findings and recommendation of the magistrate judge and denied Petitioner's motion, finding no merit to any of Petitioner's claims. The district court also declined to grant Petitioner a certificate of appealability. Petitioner has renewed his request for a certificate of appealability with this court.

In order for this court to grant a certificate of appealability, Petitioner must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To do so, Petitioner must demonstrate "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (internal citations and quotations omitted).

We have carefully reviewed Petitioner's brief, the district court's disposition, and the record on appeal. Nothing in the facts, the record on appeal, or Petitioner's filing raises an issue which meets our standard for the grant of a certificate of appealability. For substantially the same reasons as set forth in the magistrate judge's report and recommendation, as adopted by the district court in its November 2, 2004 order, we cannot say "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in

a different manner.” *Id.*

We **DENY** Petitioner’s request for a certificate of appealability and **DISMISS** the appeal. Petitioner’s motion to appeal in forma pauperis is **GRANTED**.

Entered for the Court

Monroe G. McKay  
Circuit Judge