

UNITED STATES COURT OF APPEALS

**Filed 4/9/96**

TENTH CIRCUIT

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VICTOR JOEL COOPER,

Petitioner - Appellant,

v.

R. MICHAEL CODY,

Respondent - Appellee.

No. 95-5196

(D.C. No. CV-94-568)

(N.D. Okla.)

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ORDER AND JUDGMENT\*

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Before SEYMOUR, Chief Judge, McKAY and LUCERO, Circuit Judges.

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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); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

The trial court dismissed this petition for habeas corpus as successive pursuant to Rule 9(b) of the Rules Governing § 2254 Cases in the United States District Courts. The

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

court denied a petition for certificate of probable cause. That petition is reviewed by this court. For the reasons set forth in the trial court order filed September 13, 1995, the petition for a certificate of probable cause is denied and the appeal is DISMISSED.

Entered for the Court

Monroe G. McKay  
Circuit Judge