

FEB 11 1997

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

PATRICK FISHER
Clerk

LAVERN BERRYHILL,

Petitioner - Appellant,

v.

EDWARD EVANS,

Respondent - Appellee.

No. 96-6264
(D.C. No. CIV-95-700-T)
(Western District of Oklahoma)

ORDER

Before **SEYMOUR**, Chief Judge; **PORFILIO**, and **MURPHY**, Circuit Judges.

Appellant has failed to demonstrate the denial of a constitutional right by showing the issues raised in his appeal are debatable among jurists; that a court could resolve the issues differently; or that the questions deserve further proceedings. Essentially for the reasons stated in the recommendation of the magistrate judge contained in the record, the certificate of appealability is **DENIED**, and the appeal is **DISMISSED**. 28 U.S.C. § 2253(c)(2); *Lennox v. Evans*, 87 F.3d 431 (10th Cir. 1996).

ENTERED FOR THE COURT

John C. Porfilio
Circuit Judge