

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

**SEP 4 1998**

**PATRICK FISHER**  
Clerk

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RALPH SAMUEL ALLEN III,

Petitioner - Appellant,

v.

STATE OF COLORADO;  
ATTORNEY GENERAL OF THE  
STATE OF COLORADO; RON  
BECHAM, Sheriff,

Respondents - Appellees.

No. 98-1088

(D. Colorado)

(D.C. No. 97-D-2436)

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**ORDER AND JUDGMENT\***

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Before **ANDERSON**, **McKAY**, and **LUCERO**, Circuit Judges.

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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); 10th Cir. R. 34.1.9. 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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

Ralph Samuel Allen III seeks a certificate of appealability pursuant to 28 U.S.C. § 2253(c)(1)(A) to appeal the denial of his 28 U.S.C. § 2254 habeas petition. He has also filed a motion to supplement his opening brief, and other motions.

The issues raised in Mr. Allen's petition, and the background facts of his case, are set out and fully addressed by the district court in its Order of Dismissal filed December 24, 1997, and its Order Denying Motion for Reconsideration, filed February 11, 1998. We agree with and adopt the district court's reasoning in those orders. We do not consider arguments or issues raised for the first time on appeal.

In order to obtain a certificate of appealability, a petitioner must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). See Barefoot v. Estelle, 463 U.S. 880, 893 & n.4 (1983); Lennox v. Evans, 87 F.3d 431, 434 (10th Cir. 1996). After reviewing the file and Mr. Allen's arguments, we conclude that he has not made the required showing.

Accordingly, we GRANT Mr. Allen's request to proceed on appeal without prepayment of costs, GRANT the motion to supplement the opening brief, DENY all other motions, DENY a certificate of appealability, and DISMISS the appeal.

ENTERED FOR THE COURT

Stephen H. Anderson  
Circuit Judge