

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

**JUN 9 1998**

**PATRICK FISHER**  
Clerk

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ROOSEVELT SPENCER McCOY,

Petitioner-Appellant,

v.

TOM C. MARTIN, Warden,

Respondent-Appellee.

No. 98-6110  
(D.C. No. 97-CV-673)  
(W.D. Okla.)

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**ORDER AND JUDGMENT\***

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Before **BALDOCK, EBEL** and **MURPHY**, Circuit Judges.

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Defendant-appellant Roosevelt Spencer McCoy (“McCoy”) was convicted by a jury in Oklahoma state court of possession with intent to distribute cocaine and was sentenced to fifty-years imprisonment. McCoy filed a pro se petition under 28 U.S.C. § 2254 on April 24, 1997, to vacate, set aside, or correct the sentence imposed upon him. In his petition, McCoy argued insufficiency of the

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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(f) and 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

evidence, improper jury instructions, improper state sentence/excessive punishment, Fourth Amendment violations, and ineffective assistance of counsel. The district court denied McCoy's habeas petition on February 27, 1998.

Because McCoy filed his § 2254 petition on April 24, 1997, one year after the effective date of the Antiterrorism and Effective Death Penalty Act ("AEDPA"), 28 U.S.C.A. §§ 2254-66 (1996), the AEDPA provision requiring a certificate of appealability applies to McCoy's appeal. The district court denied a certificate of appealability in an order dated April 1, 1998. In that same order, the district court denied McCoy's request for In Forma Pauperis status under 28 U.S.C. § 1915. McCoy now appeals the district court's order. Finding no substantial showing of the denial of an important federal right or any other reason justifying further proceedings, we hereby deny a certificate of appealability. As a result, because we find that the appeal does not present a reasoned, nonfrivolous argument on appeal, we also deny McCoy's motion for In Forma Pauperis status.

The mandate shall issue forthwith.

ENTERED FOR THE COURT

David M. Ebel  
Circuit Judge