

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

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**JUL 27 2000**

**PATRICK FISHER**  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DAVID WAYNE GRUBB,

Defendant-Appellant.

No. 99-5175  
(D.C. No. 97-CV-442-BU)  
(N.D. Okla.)

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**ORDER AND JUDGMENT** \*

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Before **TACHA** , **PORFILIO** , and **EBEL** , 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)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Defendant David Wayne Grubb appeals from the district court's denial of his petition for habeas relief filed under 28 U.S.C. § 2255. He applies for 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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

required certificate of appealability. See id. § 2253(c)(1). A certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right. See id. § 2253(c)(2).

At the time of the events complained of here, appellant had been living in a room at a business, Transakool Transport Refrigeration. When police officers searched for appellant in relation to another charge, they found a loaded sawed-off shotgun in his room. Appellant was charged with possession of a firearm after former conviction of a felony, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). He was convicted by a jury, and his conviction was affirmed on appeal. See United States v. Grubb, No. 95-5103, 1996 WL 200326 (10th Cir. Apr. 25, 1996). In this habeas petition, he raises numerous arguments, mostly challenging his counsel's failure to have the shotgun suppressed as evidence.

We have reviewed appellant's brief, the district court's order, and the record on appeal. The district court listed and thoroughly discussed each of appellant's issues. We are unpersuaded by appellant's claims of error, and deny his application for a certificate of appealability for substantially the same reasons as those given by the district court to deny habeas relief.

Appellant's application for a certificate of appealability is DENIED, and the appeal is DISMISSED.

Entered for the Court

John C. Porfilio  
Circuit Judge