

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

MAY 30 2002

PATRICK FISHER
Clerk

FRANK MEDEL, JR.,

Petitioner - Appellant,

v.

HANK GALETKA, Warden; STATE
OF UTAH; JAN GRAHAM, Attorney
General, State of Utah,

Respondents - Appellees.

No. 02-4007
(D.C. No. 2:99-CV-224-W)
(District of Utah)

ORDER AND JUDGMENT*

Before **KELLY, McKAY, and MURPHY**, Circuit Judges.

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.

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata and collateral estoppel.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

This case is before the court on Frank Medel Jr.'s *pro se* request for a certificate of appealability (“COA”). Medel seeks a COA so that he can appeal the district court’s denial of his 28 U.S.C. § 2254 habeas petition. *See* 28 U.S.C. § 2253(c)(1)(a). To be entitled to a COA, Medel must make “a substantial showing of the denial of a constitutional right.” *Id.* § 2253(c)(2). Where, as here, the district court denied the petition on the merits, he can make such a showing by demonstrating “that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quotation omitted). This court has closely reviewed Medel’s application for a COA, the parties’ appellate briefs, the district court’s thorough and well-stated order, and the entire record on appeal. Our review demonstrates that the district court’s resolution of Medel’s petition is not reasonably debatable and that the issues he seeks to present on appeal are not deserving of further proceedings. Accordingly, this court **DENIES** Medel’s request for a COA and **DISMISSES** this appeal for substantially those reasons set out in the district court’s order dated November 20, 2001.

ENTERED FOR THE COURT

Michael R. Murphy
Circuit Judge