

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

July 27, 2010
Elisabeth A. Shumaker
Clerk of Court

ROBERT DAVID DUNN,
Petitioner-Appellant,

v.

DAVID PARKER, Warden,
Respondent-Appellee.

No. 10-6086
(D.C. No. 5:09-CV-01239-F)
(W.D. Okla.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **MURPHY, GORSUCH, and HOLMES**, Circuit Judges.

Robert David Dunn seeks from us a certificate of appealability (“COA”) in order to appeal the district court’s dismissal of his petition for habeas corpus relief pursuant to 28 U.S.C. § 2254. The district court dismissed Mr. Dunn’s petition pursuant to a magistrate judge’s report and recommendation finding that the petition was untimely, as it was filed approximately 16 years after his conviction in 1992, and that Mr. Dunn identified no lawful reason that might entitle him to equitable tolling of the normal statutory limitations period.

* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

We may issue a COA only if the petitioner makes “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Where, as here, the district court dismisses a § 2254 petition on procedural grounds, a COA is warranted only if “jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

That standard is not met in this case. The magistrate judge’s thorough nine-page report, adopted by the district court in its entirety, is entirely correct. Neither do we see any way in which we might improve upon that analysis by further elaboration. Accordingly, we deny Mr. Dunn’s application for COA and dismiss this appeal. We also deny Mr. Dunn’s application to proceed *in forma pauperis* as he fails to present a reasoned, nonfrivolous argument on appeal. *See McIntosh v. U.S. Parole Comm’n*, 115 F.3d 809, 812 (10th Cir. 1997).

ENTERED FOR THE COURT

Neil M. Gorsuch
Circuit Judge