

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

April 5, 2016

Elisabeth A. Shumaker
Clerk of Court

MICHAEL E.D. GILYARD,

Petitioner - Appellant,

v.

JERRY CHRISMAN, Warden,

Respondent - Appellee.

No. 15-6227
(D.C. No. 5:14-CV-01110-R)
(W.D. Okla.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **GORSUCH, BALDOCK**, and **McHUGH**, Circuit Judges.

In 2010, Michael Gilyard pleaded guilty in Oklahoma state court to drug trafficking charges. In 2013, Mr. Gilyard asked the state court to correct his sentence. The court largely rejected his arguments, but did amend his sentence in part. Mr. Gilyard failed to file a timely appeal contesting this result and the state court of appeals dismissed his attempted appeal on just this ground. Having failed to win relief in state court, Mr. Gilyard turned next to federal court, bringing a habeas petition in 2014 under 28 U.S.C. § 2254 that sought to undo

* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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

both his 2010 conviction and certain aspects of the state court's 2013 rulings. A magistrate judge found that Mr. Gilyard's complaints concerning the 2010 proceeding were untimely because they were brought outside the applicable one year statute of limitations and no colorable basis existed for statutory or equitable tolling. *See* 28 U.S.C. § 2244(d)(1)(A). The magistrate judge also found that Mr. Gilyard's complaints about the 2013 proceedings were procedurally barred because Oklahoma's appellate courts had rejected those claims as untimely. The district court agreed with the magistrate judge's analysis and dismissed Mr. Gilyard's petition.

Now Mr. Gilyard seeks a certificate of appealability (COA) to contest this disposition. But by statute we may issue a COA only if we can first discern some reason to debate the district court's rulings. *Hunter v. Werholtz*, 505 F.3d 1080, 1081 (10th Cir. 2007). And even liberally construed, Mr. Gilyard's brief submission to this court suggests no reason to question the 27-page opinion offered by the magistrate judge or the additional opinion offered by the district judge. Indeed, we would be proud to adopt those detailed and thoughtful opinions as our own.

Mr. Gilyard's motion to proceed in forma pauperis is denied, his request for a COA is denied, and this appeal is dismissed. Mr. Gilyard is reminded of his obligation to pay the filing fee in full.

ENTERED FOR THE COURT

Neil M. Gorsuch
Circuit Judge