

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

December 27, 2017

Elisabeth A. Shumaker
Clerk of Court

MARIO AKOTHE,

Petitioner - Appellant,

v.

WARDEN BEAR,

Respondent - Appellee.

No. 17-6221
(D.C. No. 5:17-CV-00693-D)
(W.D. Okla.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

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

The district court denied Oklahoma state prisoner Mario Akothe's application for habeas relief under 28 U.S.C. § 2254 on the ground that it was untimely under 28 U.S.C. § 2244(d). To appeal that ruling, Mr. Akothe must obtain a certificate of appealability ("COA") from this court. *See* 28 U.S.C. § 2253(c)(1)(A) (requiring a COA to appeal "the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court"). To obtain a COA, he must show "that jurists of reason would find it debatable whether the district court

* This order is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); accord *Dulworth v. Jones*, 496 F.3d 1133, 1137 (10th Cir. 2007).

Mr. Akothe does not address timeliness in his brief requesting a COA. Although we liberally construe Mr. Akothe’s filings because he represents himself, we do not act as his advocate. *Yang v. Archuleta*, 525 F.3d 925, 927 n.1 (10th Cir. 2008). Without an argument from Mr. Akothe as to why reasonable jurists would debate the district court’s ruling, we must deny a COA and dismiss this matter. We also deny Mr. Akothe’s motion to proceed *in forma pauperis*.

Entered for the Court

Scott M. Matheson, Jr.
Circuit Judge