

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT



No. 17-41041

A True Copy
Certified order issued Jun 14, 2018

STEVEN LYNN DEEM,

Tyke W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

Petitioner-Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

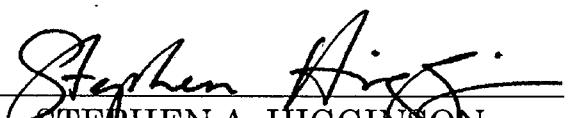
Appeal from the United States District Court
for the Eastern District of Texas

O R D E R:

Steven Lynn Deem, formerly Texas prisoner # 835277, moves for a certificate of appealability (COA) to appeal the dismissal of the second 28 U.S.C. § 2254 application challenging his conviction for aggravated sexual assault of a child. In addition to arguing the merits of his constitutional claims, Deem contends that his actual innocence is sufficient to overcome the jurisdictional bar against an unauthorized, successive § 2254 application.

A COA is DENIED because Deem fails to demonstrate that jurists of reason "could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003); *see McQuiggin v. Perkins*, 569 U.S. 3831, 395-96 (2013); *Crone v. Cockrell*, 324 F.3d 833, 836 (5th Cir. 2003); 28 U.S.C. § 2244(b)(3)(A). The

motions for leave to proceed in forma pauperis and for oral argument also are
DENIED.



STEPHEN A. HIGGINSON
UNITED STATES CIRCUIT JUDGE

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

STEVEN LYNN DEEM, #16418-035 §

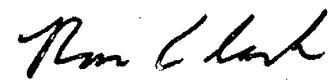
VS. § CIVIL ACTION NO. 6:17cv515
DIRECTOR, TDCJ-CID § APPEAL NO. 17-41041

ORDER

Before the Court is Appellant's motion for leave to appeal *in forma pauperis* (Dkt. #11). Appellant may proceed IFP on appeal only if he is economically eligible and presents a nonfrivolous issue. *See Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982). The history of the case reveals that Appellant's petition for a writ of habeas corpus was denied on September 27, 2017. A certificate of appealability was denied at the same time. Because Appellant has neither presented a nonfrivolous issue nor shown that he is entitled to a certificate of appealability, he also has not shown that he is entitled to proceed *in forma pauperis* on appeal. *United States v. Delario*, 120 F.3d 580, 582 (5th Cir. 1997). It is accordingly

ORDERED that the motion for leave to appeal *in forma pauperis* (Dkt. #11) is **DENIED**. All motions not previously ruled on are **DENIED**. All future motions should be filed with the Clerk of the United States Court of Appeals for the Fifth Circuit.

So **ORDERED** and **SIGNED** this 9 day of November, 2017.



Ron Clark, United States District Judge

**Additional material
from this filing is
available in the
Clerk's Office.**