

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-20787

KEVIN TERRELL TATUM,

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 Southern District of Texas

O R D E R:

Kevin Terrell Tatum, Texas prisoner # 1409740, moves this court for a certificate of appealability (COA) to appeal the denial of his 28 U.S.C. § 2254 application, wherein he sought to challenge his conviction of murder in violation of Texas Penal Code Annotated § 19.02(b). Citing an affidavit of a recanting witness, he argues that the evidence shows that he acted in self-defense or in sudden passion. He further argues that his trial counsel was ineffective for failing to raise the issue of sudden passion in mitigation, for failing to adequately investigate the case and interview witnesses who could have corroborated his self-defense argument, and for failing to make certain objections at trial. He does not brief the other claims he raised in his § 2254 application and has, therefore, abandoned them. *See Hughes v. Johnson*, 191

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F.3d 607, 613 (5th Cir. 1999); *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

To obtain a COA, a prisoner must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *see Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). An applicant satisfies the COA standard “by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

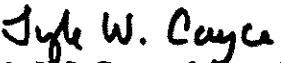
Tatum fails to make the requisite showing. Consequently, his motion for a COA is DENIED.





JAMES C. HO
UNITED STATES CIRCUIT JUDGE

A True Copy
Certified order issued Nov 05, 2018


Clerk, U.S. Court of Appeals, Fifth Circuit

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JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent - Appellee

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

Before SOUTHWICK, HAYNES and HO, Circuit Judges.

PER CURIAM:

A member of this panel previously denied appellant's motion for certificate of appealability. The panel has considered appellant's motion for reconsideration. IT IS ORDERED that the motion is DENIED.

Mr. KEVIN TERRELL TATUM
TDCJ #1409740
DARRINGTON UNIT
59 DARRINGTON RD.
ROSHARON, TX. 77583

MARCH 18, 2019

UNITED STATES SUPREME COURT
1 1ST ST. N.E.
WASHINGTON, DC 20543

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OFFICE OF THE CLERK
SUPREME COURT U.S.

Re: ENCLOSED "Petition for Extension of
Time to ADVANCE WRIT OF CERTIORARI"
Q.C.A. # 17-00787 - 5th C.R.

Dear Court Clerk:

ENCLOSED, PLEASE FIND AN ORIGINAL
COPY OF A "MOTION FOR LEAVE FOR EXTENSION
OF TIME TO ADVANCE WRIT OF CERTIORARI",
TO BE ADVANCED BEFORE THE COURT. PLEASE
FILE SAID MOTION BEFORE THE COURT, HAVING
THE APPROPRIATE JURISDICTION OVER THE SAME,
AT THE COURT'S EXERCISED CONVENIENCE.
YOUR HELP IN FILING SAID MOTION BEFORE
THE COURT, AT THE COURT'S EXERCISED CON-
VENIENCE, WOULD BE GREATLY APPRECIATED.

Sincerely,

Kevin Terrell Tatum

KEVIN TERRELL TATUM

PETITIONER, Pro Se

TDCJ # 1409740