

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

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No. 17-20787

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KEVIN TERRELL TATUM,

Petitioner-Appellant

v.

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

Respondent-Appellee

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

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**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.



A True Copy  
Certified order issued Nov 05, 2018

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

  
JAMES C. HO  
UNITED STATES CIRCUIT JUDGE

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Respondent - Appellee

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Before SOUTHWICK, HAYNES and HO, Circuit Judges.

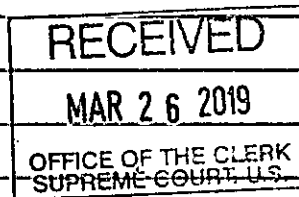
PER CURIAM:

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  
TRCT #1409740  
DARRINGTON UNIT  
59 DARRINGTON RD.  
ROSHARON, TX. 77583

MARCH 18, 2019

UNITED STATES SUPREME COURT  
1 1<sup>ST</sup> ST. N.E.  
WASHINGTON, DC 20543



RE: ENCLOSED "PETITION FOR EXTENSION OF  
TIME TO ADVANCE WRIT OF CERTIORARI"  
C.G.A. # 17-20787 - 5<sup>TH</sup> CIR.

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 EARLIEST CONVENIENCE.  
YOUR HELP IN FILING SAID MOTION BEFORE  
THE COURT, AT THE COURT'S EARLIEST CON-  
VENIENCE, WOULD BE GREATLY APPRECIATED.

Sincerely,

Kevin Terrell Tatum  
KEVIN TERRELL TATUM  
PETITIONER, PRO SE  
TRCT #1409740