

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT



No. 17-10911

A True Copy
Certified order issued Apr 03, 2018

JEFFREY D. WESTBROOK,

Steph 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 Northern District of Texas

ORDER:

Jeffrey D. Westbrook, Texas prisoner # 00670281, moves for a certificate of appealability (COA) to challenge the denial of his 28 U.S.C. § 2254 application. He challenged prison disciplinary convictions on the grounds that there was insufficient evidence to support the convictions, the charges were retaliatory, and he was not allowed to attend the disciplinary hearing.

A COA may be issued “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). When a district court has rejected a constitutional claim on the merits, a COA will be granted only if the applicant “demonstrate[s] that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or

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wrong” or that the claims presented were “adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (internal quotation marks and citation omitted). Westbrook fails to make this showing because he has waived by virtue of inadequate briefing any challenge to the denial of his § 2254 application. *See id.*; *McGowen v. Thaler*, 675 F.3d 482, 497 (5th Cir. 2012).

Westbrook’s motion for a COA is DENIED. His motion for leave to file a supplemental document is GRANTED.

/s/ Edith Brown Clement

EDITH BROWN CLEMENT
UNITED STATES CIRCUIT JUDGE

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Before CLEMENT and OWEN, Circuit Judges*.

PER CURIAM:

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

*The motion for reconsideration is being decided by a quorum. 28 U.S.C. Sect. 46(d).