IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 17-50770

CRAIG MACK,

Petitioner-Appellant

v.

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

Respondent-Appellee

Appeals from the United States District Court
for the Western District of Texas

O R D E R:

Craig Mack, Texas prisoner # 612010, moves for a certificate of appealability (COA) to appeal the district court's denial of his 28 U.S.C. § 2254 application challenging his conviction for two counts of evading arrest or detention with a vehicle. He argues that (1) the trial court did not have jurisdiction because the charged offenses were improperly classified as felonies; (2) all three of his trial attorneys were ineffective because they failed to put on a defense, failed to file pretrial motions, and gave Mack false legal advice; and (3) the trial court abused its discretion by denying his motion to represent himself.

For the first time in his COA motion, Mack argues that the State did not disclose certain offense reports in violation of *Brady v. Maryland*, 373 U.S. 83

(1963). This court will not consider an issue raised for the first time in a COA motion. *See Henderson v. Cockrell*, 333 F.3d 592, 605 (5th Cir. 2003).

In the district court, Mack argued that the trial court lacked jurisdiction in part because the trial court arbitrarily excluded all blacks from the grand jury. He did not raise this issue in his COA motion. Therefore, Mack has abandoned it by failing to brief it adequately on appeal. *See Hughes v. Johnson*, 191 F.3d 607, 612-13 (5th Cir. 1999).

A COA will issue if Mack makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). This standard is satisfied when the COA applicant shows that reasonable jurists would find the district court's decision to deny relief debatable or wrong, *see Slack*, 529 U.S. at 484, 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). He has not made the required showing concerning the above claims. Accordingly, Mack's COA motion is DENIED.

/s/Jennifer Walker Elrod
JENNIFER WALKER ELROD
UNITED STATES CIRCUIT JUDGE