

SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK

(USCA 5 NO.18-20019)  
BUTLER V. DAVIS

MOTION FOR CLERK TO FILE PETITION OUT-OF TIME

TO THE HONORABLE JUSTICES OF SAID COURT

COMES NOW QUINCY BUTLER pro se in the above styled number cause and files this Motion for clerk to file Petition out-of-time.

Movant would show as follows:

- 1) This motion is filed in "Good Faith" and in the interest of justice.
- 2). Movant was directed by Clerk Scott Harris to file this motion along with the accompanying documents.
- 3). Petitioner is incarcerated and the facility has been on a lockdown that impeded with his access to court and his ability to access case authority.

E. I.

This motion is filed based on the fact that petitioner's Writ was untimely in which he filed a untimely motion for extension of time was also file and received by this court May 2,2019. Furthermore, a letter was received by petitioner from this Honorable Court on May 7,2019 directing petitioner to file this motion along with the accompanying documents; including Petitioner's Writ of Certiorari.

Wherefore movant has done as directed and prays that this motion is granted and his Writ is allowed to be entertained under this Honorable Courts jurisdiction in the interest of Justice.

Respectfully submitted;  
Quincy D. Butler

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

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No. 18-20019

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QUINCY DESHAN BUTLER,

Petitioner-Appellant,

versus

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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Before SMITH, HIGGINSON, and DUNCAN, Circuit Judges.

PER CURIAM:

A member of this panel denied appellant's motion for certificate of appealability and denied as unnecessary the motion to supplement the motion for certificate of appealability. The panel has considered appellant's motion for reconsideration of the denial of the motion for certificate of appealability. IT IS ORDERED that the motion for reconsideration is DENIED.

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 18-20019

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A True Copy  
Certified order issued Dec 03, 2018

QUINCY DESHAN BUTLER,

*Jyle W. Cayce*  
Clerk, U.S. Court of Appeals, Fifth Circuit  
Petitioner-Appellant,

versus

LORIE DAVIS, Director,  
Texas Department of Criminal Justice, Correctional Institutions Division,

Respondent-Appellee.

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

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ORDER:

Quincy Butler, Texas prisoner #01899541, moves for a certificate of appealability ("COA") to appeal the denial of his 28 U.S.C. § 2254 application for lack of jurisdiction. He also moves to supplement his COA brief. The motion to supplement is DENIED as unnecessary.

To obtain a COA, Butler must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). He must demonstrate "that

No. 18-20019

reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (internal quotation marks and citation omitted). Where, as here, the district court denies a § 2254 application on procedural grounds without reaching the underlying constitutional claims, a COA should issue “when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Id.*

Butler has not made the requisite showing. Consequently, the motion for a COA is DENIED.

/s/ Jerry E. Smith

JERRY E. SMITH  
United States Circuit Judge

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