

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-50074



LUIS RAY JARAMILLO, JR.,

Applicant,

v.

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

Respondent.

A True Copy
Certified order issued Oct 09, 2019

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

Order

Luis Ray Jaramillo, Jr., Texas prisoner # 01966673, pleaded true to violating the terms of his community supervision for his conviction for a violation of sex offender registration. The state court sentenced him to 10 years of imprisonment. Jaramillo seeks a certificate of appealability (COA) to appeal the denial of his 28 U.S.C. § 2254 habeas application. He argues that (1) his trial counsel was ineffective for not challenging the conclusion that Jaramillo was competent and for failing to object to the amended revocation petition; (2) his appellate counsel was ineffective for not raising claims on appeal; and (3) the state court violated his due-process and equal-protection rights by changing the terms of his plea agreement, imposing unreasonable conditions of community supervision, and not giving him notice that he must report to his supervision officer. Jaramillo also moves for leave to proceed in forma pauperis (IFP) on appeal and for appointment of counsel.

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Jaramillo does not reurge his claim that his appellate counsel gave ineffective assistance by failing to file a second appellate brief. He therefore has abandoned this issue. *See Hughes v. Johnson*, 191 F.3d 607, 613 (5th Cir. 1999).

To obtain a COA, a movant 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 (2000). “A petitioner satisfies this 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). If a district court has rejected the claims on their merits, the movant “must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack*, 529 U.S. at 484; *see also Miller-El*, 537 U.S. at 338. Jaramillo has not made the requisite showing. *See Slack*, 529 U.S. at 484. Therefore, his motion for a COA is DENIED. His motions for leave to proceed IFP on appeal and for appointment of counsel are also DENIED.



ANDREW S. OLDHAM
UNITED STATES CIRCUIT JUDGE

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