

United States Court of Appeals
for the Fifth Circuit

No. 21-11090

United States Court of Appeals
Fifth Circuit

FILED

April 27, 2022

Lyle W. Cayce
Clerk

GEORGE EDWARD PURDY,

Petitioner—Appellant,

versus

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice,*
Correctional Institutions Division,

Respondent—Appellee.

Application for Certificate of Appealability from the
United States District Court for the Northern District of Texas
USDC No. 3:20-CV-737

ORDER:

George Edward Purdy, Texas inmate # 02187077, seeks a certificate of appealability (COA) to challenge the dismissal of his 28 U.S.C. § 2254 petition, denied in part as barred by the statute of limitations, and, in part as without merit. Purdy's COA motion and brief address only the merits of his constitutional claims found barred by the statute of limitations and fail to address his remaining claims. Purdy fails to show that any evidence he asserts supports a claim of actual innocence was new, and thus not within his knowledge at the time he pleaded guilty. *See Hancock v. Davis*, 906 F.3d 387,

Appendix A

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390 (5th Cir. 2018). He thus fails to make the required showing. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

The application for a COA is DENIED. Purdy's motion to proceed in forma pauperis is also DENIED.

/s/Jennifer Walker Elrod
JENNIFER WALKER ELROD
United States Circuit Judge

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GEORGE EDWARD PURDY,
TDCJ No. 2187077,

Petitioner,

V.

DIRECTOR, TDCJ-CID,

Respondent.

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No. 3:20-cv-737-K

ORDER

The Court denied Petitioner George Edward Purdy's *pro se* 28 U.S.C. § 2254 habeas application with prejudice and denied him a certificate of appealability. *See* Dkt. Nos. 22-26. Petitioner nevertheless noticed an appeal and moves for leave to appeal *in forma pauperis* (IFP). *See* Dkt. Nos. 27 & 28. The Court DENIES leave to appeal IFP and CERTIFIES, under 28 U.S.C. § 1915(a)(3), and as fully explained in the magistrate judge's findings, conclusions, and recommendation [Dkt. No. 22], that Petitioner's appeal is not taken in good faith. But Petitioner may challenge this finding under *Baugh v. Taylor*, 117 F.3d 197 (5th Cir. 1997), by filing a motion to proceed IFP on appeal with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of this order.

SO ORDERED.

Signed December 20, 2021.



ED KINKEADE
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GEORGE EDWARD PURDY,
TDCJ No. 2187077,

Petitioner,

V.

DIRECTOR, TDCJ-CID,

Respondent.

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No. 3:20-cv-737-K

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. An objection was filed by Petitioner. The District Court reviewed *de novo* those portions of the proposed findings, conclusions, and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. Finding no error, the Court ACCEPTS the Findings, Conclusions, and Recommendation of the United States Magistrate Judge. Petitioner's Objections are OVERRULED.

SO ORDERED.

Signed October 14th, 2021.


ED KINKEADE
UNITED STATES DISTRICT JUDGE