

United States Court of Appeals  
for the Fifth Circuit

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No. 20-40755

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United States Court of Appeals  
Fifth Circuit

**FILED**

October 25, 2021

Lyle W. Cayce  
Clerk

HECTOR JESSE JIMENEZ,

*Petitioner—Appellant,*

*versus*

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

*Respondent—Appellee.*

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Application for Certificate of Appealability from the  
United States District Court for the Eastern District of Texas  
USDC No. 4:20-CV-357

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ORDER:

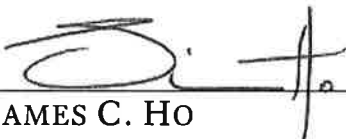
Hector Jesse Jimenez, Texas Prisoner # 2175297, moves for a certificate of appealability (COA) to challenge the district court's dismissal of his 28 U.S.C. § 2254 petition as time barred. He also moves for leave to proceed in forma pauperis (IFP). Jimenez contends that he is entitled to equitable tolling because there are no prison policies or practices that notify inmates of the existence of post-conviction deadlines or remedies. Because Jimenez does not argue that the district court erred in determining that his § 2254 petition was untimely, he has abandoned this argument. *See Blue v. Thaler*, 665 F.3d 647, 662 (5th Cir. 2011).

No. 20-40755

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). To satisfy this standard when the district court has denied a § 2254 petition on procedural grounds, a petitioner must show “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.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Reasonable jurists would not debate the district court’s determination that Jimenez was not entitled to equitable tolling. Section 2254’s statute of limitations may be equitably tolled when a petitioner shows “(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way and prevented timely filing.” *Jackson v. Davis*, 933 F.3d 408, 410 (5th Cir. 2019) (quoting *Holland v. Florida*, 560 U.S. 631, 649 (2010)). Jimenez has not made the required showing.

Accordingly, his motion for a COA is DENIED and the motion to proceed IFP is DENIED.

  
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JAMES C. HO  
*United States Circuit Judge*