

United States Court of Appeals for the Fifth Circuit

No. 21-40468

United States Court of Appeals
Fifth Circuit

FILED

March 2, 2022

Lyle W. Cayce
Clerk

ANTONIO B. MOORE,

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 Eastern District of Texas
USDC No. 5:19-CV-171

ORDER:

Antonio B. Moore, Texas prisoner # 2021785, moves for a certificate of appealability (COA) following the dismissal of his 28 U.S.C. § 2254 petition. He is serving concurrent 99-year habitual-offender sentences imposed after a jury convicted him of felony murder and intoxication assault, resulting from an auto accident that killed one person and injured another.

In three related claims, Moore contends that counsel was ineffective for abandoning a motion to suppress evidence, for failing to investigate the law regarding searches and seizures, and for failing to object to testimony

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about his blood alcohol content. Central to these claims is his contention that his blood sample was unlawfully obtained, despite the use of a search warrant.

Moore fails to “demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Accordingly, the motion for a COA is DENIED because Moore does not make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Moore’s motion for appointment of counsel is also DENIED.

/s/ James E. Graves, Jr.

JAMES E. GRAVES, JR.
United States Circuit Judge