

United States Court of Appeals  
for the Fifth Circuit

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No. 22-10067

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DENNIS HOOD,

*Petitioner—Appellant,*

*versus*

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

*Respondent—Appellee.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:19-CV-102

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Before HIGGINBOTHAM, DUNCAN, and WILSON, *Circuit Judges.*

PER CURIAM:

A member of this panel previously DENIED a motion for certificate of appealability. The panel has considered Appellant's motion for reconsideration.

IT IS ORDERED that the motion is DENIED.

REC'D 11-15-22 AM

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United States Court of Appeals  
Fifth Circuit

**FILED**

September 12, 2022

DENNIS HOOD,

Lyle W. Cayce  
Clerk

*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 Northern District of Texas  
USDC No. 2:19-CV-102

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ORDER:

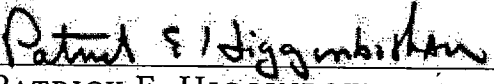
Dennis Hood, Texas prisoner # 00369033, moves this court for a certificate of appealability (COA) to appeal the district court's dismissal of his 28 U.S.C. § 2254 application as time barred. In that application, Hood contended that his due process rights were violated by the Texas Department of Criminal Justice's failure to recognize that his 30-year sentence for burglary of a habitation ceased to operate as of October 4, 2017, which resulted in a finding that he is ineligible for parole and mandatory supervision. Challenging the district court's application of the time bar, Hood argues in his COA motion and brief that October 4, 2017, is the date that the factual

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predicate for his claim became discoverable through the exercise of due diligence. *See* 28 U.S.C. § 2244(d)(1)(D).

To obtain a COA, Hood must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). If the district court denies a habeas application on procedural grounds without reaching the underlying constitutional claims, as was done in this case, a COA should issue “when the prisoner shows, at least, that jurists of reason would find it debatable whether the [application] 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). Hood has not made the requisite showing. *See id.* Accordingly, his motion for a COA is DENIED.

  
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PATRICK E. HIGGINBOTHAM  
*United States Circuit Judge*

*REC'D 9.27.22 AH*

*APPENDIX - A*