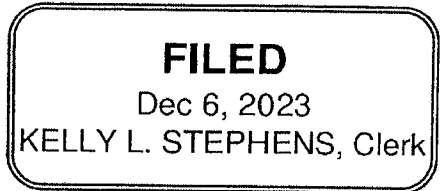


UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT



No. 23-5553

GLENN D. ODOM, II,

Petitioner-Appellant,

v.

SCOTT JORDAN, Warden,

Respondent-Appellee.

Before: NORRIS, Circuit Judge.

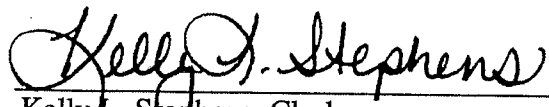
JUDGMENT

THIS MATTER came before the court upon the application by Glenn D. Odom, II for a certificate of appealability.

UPON FULL REVIEW of the record and any submissions by the parties,

IT IS ORDERED that the application for a certificate of appealability is DENIED.

ENTERED BY ORDER OF THE COURT




Kelly L. Stephens, Clerk

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Accordingly, Odom's motions for a certificate of appealability and to appoint counsel are
DENIED.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Feb 22, 2024

KELLY L. STEPHENS, Clerk

GLENN D. ODOM, II,

Petitioner-Appellant,

v.

SCOTT JORDAN, WARDEN,

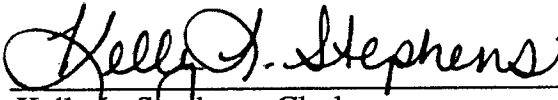
Respondent-Appellee.

ORDER

Before: GIBBONS, GRIFFIN, and DAVIS, Circuit Judges.

Glenn D. Odom II petitions for rehearing en banc of this court's order entered on December 6, 2023, denying his motion for a certificate of appealability. The petition was initially referred to this panel, on which the original deciding judge does not sit. After review of the petition, this panel issued an order announcing its conclusion that the original motion was properly denied. The petition was then circulated to all active members of the court, none of whom requested a vote on the suggestion for an en banc rehearing. Pursuant to established court procedures, the panel now denies the petition for rehearing en banc.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk

Appendix I
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UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Feb 2, 2024

KELLY L. STEPHENS, Clerk

GLENN D. ODOM, II,

Petitioner-Appellant,

v.

SCOTT JORDAN, WARDEN,

Respondent-Appellee.

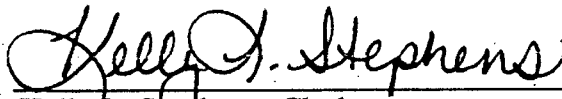
ORDER

Before: GIBBONS, GRIFFIN, and DAVIS, Circuit Judges.

Glenn D. Odom II, a Kentucky prisoner, petitions the court to rehear en banc its order denying him a certificate of appealability. The petition has been referred to this panel, on which the original deciding judge does not sit, for an initial determination on the merits of the petition for rehearing. Upon careful consideration, the panel concludes that the original deciding judge did not misapprehend or overlook any point of law or fact in issuing the order and, accordingly, declines to rehear the matter. Fed. R. App. P. 40(a).

The Clerk shall now refer the matter to all of the active members of the court for further proceedings on the suggestion for en banc rehearing.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

Appendix H

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NOS. 03CR2803
04CR2521
06CR2892

JEFFERSON CIRCUIT COURT

DIVISION ONE (1)
JUDGE BARRY WILLETT

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

NOTICE MOTION ORDER

GLENN D. ODOM

DEFENDANT

NOTICE

Please take notice that the defendant will make the following motion and tender the attached Order in Open Court on Monday, October 15, 2007 at 8:30 a.m. or as soon as he may be heard on the matter.

**DEFENDANT'S RENEWED MOTION TO REPRESENT HIMSELF
AT THE TRIAL OF THIS MATTER WITH HYBRID COUNSEL**

Comes now the defendant, Glenn Odom, by counsel, who moves the Court again pursuant to *Ferrata v. California*, 422 U.S. 806; 95 S. Ct. 2525; 45 L. Ed.2d 562 (1975), to allow the defendant to represent himself at the trial of this matter. In support of this motion, the defendant states as follows:

1. On October 1, 2007, the undersigned moved to withdraw as counsel due to various reasons, and the defendant on the record stated he did not trust the undersigned and wished to cross-examine witnesses, testify and offer opening statements and closing arguments.

2. The Court denied the motion to withdraw despite counsel's belief that continuing representation of the defendant was not proper under the Kentucky Rules of Professional Conduct.

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NO. 03CR-2803
04CR-2521
06CR-2892

JEFFERSON CIRCUIT COURT
DIVISION ONE

COMMONWEALTH OF KENTUCKY

PLAINTIFF

v.

ORDER

GLENN D. ODOM

DEFENDANT

* * * *

This case came before the Court on October 1, 2007 for a pretrial conference. This proceeding was reported by videotape no. 30-01-07-VCR-075-A-1.

Assistant Commonwealth's Attorney:

Jason Butler, Esq.
Erin White, Esq.

Defendant's attorney:

J. Bart McMahon, Esq.

An ex parte discussion with the Court was requested by defendant's counsel J. Bart McMahon (recorded on Judge Willett's 2007 ex parte record tape). A copy of the recording of the ex parte hearing will be included in the record (sealed) for appellate review.

MOTION FOR COMPETENCY EVALUATION

Following a colloquy with Mr. Odom, the Court is unable to find that reasonable grounds exist to believe Mr. Odom is incompetent to stand trial. see KRS 504.100(1). The motion for competency evaluation is DENIED.

**MR. McMAHON'S MOTION TO WITHDRAW AND
DEFENDANT'S MOTION TO REPRESENT HIMSELF AT TRIAL**

Defendant's appointed counsel, J. Bart McMahon ("Mr. McMahon") seeks leave to withdraw as counsel for Mr. Odom. Mr. McMahon's motion states, inter alia, that "Pursuant to SCR 3.130 (1.16 & 6.2), . . . he cannot continue to represent the defendant without violations of

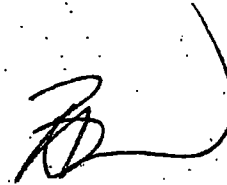
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the Rules of Professional Conduct." The Court has reason to believe that this is the same conflict that arose between Mr. Odom and his previous counsel. See Order Declaring Mistrial, entered May 2, 2006.

When asked by the Court if allowing Mr. Odom to give narrative testimony to the jury would resolve his ethical dilemma, Mr. McMahon responded that it would resolve it in part.

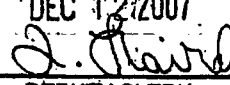
Mr. Odom initially claimed that he had no objection to Mr. McMahon's representation. Mr. Odom simply wanted to exercise his rights to be co-counsel at trial. When the Court indicated that it would be willing to allow Mr. Odom to testify in narrative fashion on direct, Mr. Odom then offered that he no longer trusted Mr. McMahon.

On November 16, 2007, Mr. Odom filed a Notice of Defendant's Trial Participation.



BARRY WILLETT
JEFFERSON CIRCUIT COURT JUDGE

ENTERED IN COURT
DAVID L. NICHOLSON, CLERK

DEC 12 2007
By 
DEPUTY CLERK

c: Jason T. Butler, Esq./Erin White, Esq.
J. Bart McMahon, Esq.
Mr. Glenn Odom

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

GLENN ODOM

PETITIONER/APPELLANT

v.

CIVIL ACTION NO. 3:20-CV-P212-JHM

ANNA VALENTINE

RESPONDENT/APELLEE

ORDER

Petitioner/Appellant Glenn Odom filed applications to proceed on appeal *in forma pauperis* (DNs 45 and 46). To appeal *in forma pauperis* in a 28 U.S.C. § 2254 case, an appellant must seek permission from the district court under Federal Rule of Appellate Procedure 24(a), which provides that a party seeking pauper status on appeal must first file a motion in the district court, along with a supporting affidavit. Fed. R. App. P. 24(a)(1). Rule 24(a) also provides that if the district court certifies that an appeal would not be taken in good faith, or otherwise denies leave to appeal *in forma pauperis*, the appellant must file his motion to proceed *in forma pauperis* in the appellate court. *See* Fed. R. App. P. 24(a)(4)-(5).

For the same reasons that the Court dismissed the petition and denied a certificate of appealability, *see* DNs 38 and 39, the Court **CERTIFIES** that an appeal in this matter would not be taken in good faith. Accordingly,

IT IS ORDERED that the applications to proceed on appeal without the prepayment of fees (DNs 45 and 46) are **DENIED**.

Within **30 days** of service of this Order, Odom must either **pay the \$505.00 appellate filing fee to the Clerk of the District Court** or **file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Sixth Circuit** in accordance with Fed. R. App. P. 24(a)(5). *See Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997). Should O'Neal

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choose to pay the \$505.00 appellate filing fee, payment must be made payable to **Clerk, U.S. District Court** and sent to Office of the Clerk, United States District Court, Western District of Kentucky, 601 West Broadway, Ste. 106, Louisville, KY 40202-2249.

Failure to pay the \$505.00 filing fee or to file an application to proceed on appeal *in forma pauperis* in the United States Court of Appeals for the Sixth Circuit within 30 days **may result in dismissal of the appeal**. A copy of this Order is being sent to the parties and to the United States Court of Appeals for the Sixth Circuit. *See* Fed. R. App. P. 24(a)(4).

Date: July 10, 2023

Joseph H. M. S. Sinley

Joseph H. McKinley Jr., Senior Judge
United States District Court

cc: Petitioner/Appellant, *pro se*
Counsel of record
Clerk, Sixth Circuit (No. 23-5553)
4414.010

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

GLENN ODOM

PETITIONER

v.

ANNA VALENTINE

RESPONDENT

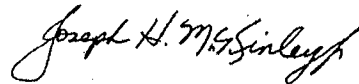
Civil Action No. 3:20-cv-00212-JHM-HBB
SENIOR JUDGE JOSEPH H. MCKINLEY, JR.

ORDER

This matter is before the Court upon Petitioner's Motion to Amend or Make Additional Findings [DN 40], and the Court having considered same, and being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the Petitioner's motion is **denied**. The Petitioner has filed a Notice of Appeal, thus divesting this Court of jurisdiction.

June 13, 2023



Joseph H. McKinley Jr., Senior Judge
United States District Court

Copies to: Petitioner, *pro se*
Counsel of record

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UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**FILED**

Dec 6, 2023

KELLY L. STEPHENS, Clerk

GLENN D. ODOM II,

Petitioner-Appellant,

v.

SCOTT JORDAN, Warden,

Respondent-Appellee.

ORDER

Before: NORRIS, Circuit Judge.

Glenn D. Odom II, a Kentucky prisoner proceeding pro se, appeals the district court's judgment denying his habeas petition under 28 U.S.C. § 2254. He moves for a certificate of appealability and to appoint counsel.

A jury convicted Odom of murder, second-degree assault, second-degree criminal mischief, and two counts of intimidating a participant in the legal process. The trial court sentenced him to an effective term of life in prison. The Kentucky Supreme Court reversed the intimidation convictions and remanded for retrial on those charges but otherwise affirmed. *Odom v. Commonwealth*, No. 2008-SC-272-MR, 2010 WL 1005958 (Ky. Mar. 18, 2010). Odom unsuccessfully sought state post-conviction relief. *Odom v. Commonwealth*, No. 2017-CA-193-MR, 2020 WL 39974 (Ky. Ct. App. Jan. 3, 2020).

Odom filed a § 2254 petition, raising sixteen grounds for relief. The district court denied the petition and declined to issue a certificate of appealability. Odom now seeks a certificate of appealability only for his claims that the admission of certain evidence denied him a fair trial and that his trial counsel rendered ineffective assistance in various ways.

To obtain a certificate of appealability, a petitioner must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Where a district court has rejected a

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constitutional claim on the merits, a petitioner must show that jurists of reason would find it debatable whether the district court correctly resolved the claim under the Antiterrorism and Effective Death Penalty Act of 1996. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

* In his fifth and sixth grounds for relief, Odom argues that he was denied a fair trial by the admission of evidence concerning unrelated escape and robbery charges.

Reasonable jurists would not debate the district court's determination that the state courts reasonably rejected these claims. *See Odom*, 2010 WL 1005958, at *9-12. To the extent that Odom argues that the trial court's evidentiary rulings violated state law, his claims are not cognizable in this federal habeas proceeding. *See Estelle v. McGuire*, 502 U.S. 62, 67 (1991). And he cannot show that admitting the evidence was so egregious that he was denied a fundamentally fair trial, given that the evidence was insignificant compared to the overwhelming evidence of his guilt, which included eyewitness testimony that Odom committed the crimes, Odom's acknowledgement that he shot the murder victim, and Odom's admission to the criminal mischief offense. *See Broom v. Mitchell*, 441 F.3d 392, 407 (6th Cir. 2006); *Brown v. O'Dea*, 227 F.3d 642, 645 (6th Cir. 2000) (explaining that erroneously admitting evidence renders a trial fundamentally unfair where the evidence is material in the sense of being crucial or highly significant); *Odom*, 2010 WL 1005958, at *1-2.

* In his ninth ground for relief, Odom argues that his trial counsel, who represented him under a hybrid counsel arrangement, rendered ineffective assistance by acting under a conflict of interest. Odom contends that counsel had a conflict because his wife worked at the appellate division of the public defender's office when members of the office represented Odom earlier in the case. *See Odom*, 2020 WL 39974, at *2, *4.

Generally, to prevail on an ineffective-assistance claim, a petitioner must establish that counsel's performance was deficient and that the deficiency prejudiced the defense, meaning that there is a reasonable probability that, but for counsel's error, the result of the proceeding would have been different. *Shimel v. Warren*, 838 F.3d 685, 696 (6th Cir. 2016). Prejudice may be

presumed, however, when counsel actively represented conflicting interests and an actual conflict of interest adversely affected counsel's performance. *See Jalowiec v. Bradshaw*, 657 F.3d 293, 317 (6th Cir. 2011).

Reasonable jurists would not debate the district court's determination that the state courts reasonably rejected this claim. *Odom*, 2020 WL 39974, at *4-6. Odom has not explained how counsel being married to an employee of the public defender's office had any impact on his case. Thus, he has not shown that the alleged conflict adversely affected counsel's performance or that it is reasonably probable that, absent the alleged conflict, the trial's outcome would have been different. *See Jalowiec*, 657 F.3d at 317-18.

* In his tenth ground for relief, Odom argues that his trial counsel rendered ineffective assistance by conceding his guilt during voir dire and only correcting the statement after Odom objected. Reasonable jurists would not debate the district court's determination that the state courts reasonably rejected this claim. *See Odom*, 2020 WL 39974, at *6-7. It is unlikely that counsel's initial statement affected the verdict, given the overwhelming evidence of Odom's guilt and counsel's clarification to the venire that Odom was not conceding guilt. *Manslaughter?*

* In his thirteenth ground for relief, Odom argues that his trial counsel rendered ineffective assistance by not (1) filing a pretrial motion to suppress Yolanda Cooper's transcribed statement on the basis that the original recording was unavailable and there were errors in the transcript, (2) filing a pretrial motion to dismiss the second-degree assault charge and an additional criminal mischief charge that was resolved by a directed verdict at trial, (3) interviewing Cooper, the detective who interviewed Eddie Sickie (another eyewitness), and other detectives, and (4) objecting when the trial court did not allow the jury to question him after his narrative testimony.

Reasonable jurists would not debate the district court's determination that the state courts reasonably rejected these claims. *Id.* at *7-8. Odom has not shown that he was prejudiced by counsel's failure to file the pretrial motions because (1) Cooper testified at trial and he had the opportunity to cross-examine her about the statement, (2) it is unlikely that the assault charge

would have been dismissed given Cooper's claim that she saw Odom commit the assault, and (3) the trial court ultimately granted a directed verdict on the additional criminal mischief charge. *Id.* at *1, *7. Odom has not shown that he was prejudiced by counsel's failure to interview Cooper or the detectives because (1) Cooper testified at trial, and Odom has not shown a reasonable probability that interviewing her would have affected the jury's verdict, and (2) Odom has not shown that the detectives would have provided favorable evidence that was likely to affect the jury's verdict. Odom has also not shown that he was prejudiced by counsel's failure to object when the trial court did not allow the jury to question him because he has not shown that the questioning was likely to affect the verdict.

* In his fourteenth ground for relief, Odom argues that his trial counsel rendered ineffective assistance by not moving for a mistrial when it became apparent during cross-examination that detective Michael Halblieb testified falsely before the grand jury. Odom contends that Halblieb falsely stated that Amy Mott had positively identified Odom as the person who assaulted her and that Odom had shot at a car and houses. *Id.* at *8.

Reasonable jurists would not debate the district court's determination that the state courts reasonably rejected this claim because Odom has not shown prejudice resulting from counsel's alleged error. *Id.* at *8-10. Odom has not established a reasonable probability that the trial court would have granted a mistrial given Cooper's testimony that she saw Odom assault Mott and Esther McWhorter's testimony that she saw Odom vandalize her house and car. *Id.* at *1-2.

* Finally, in his sixteenth ground for relief, Odom argues that his trial counsel rendered ineffective assistance by not objecting when Odom was denied the opportunity to attend bench conferences. Reasonable jurists would not debate the district court's determination that the state courts reasonably rejected this claim because Odom has not shown a reasonable probability of a different result at trial if counsel had objected to Odom's exclusion from bench conferences. *See id.* at *10.

I don't have to ... either respected or denied.