

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 30, 2024

**Jane K. Castro
Chief Deputy Clerk**

WALTER PAYTON,

Plaintiff - Appellant,

v.

STATE OF KANSAS,

Defendant - Appellee.

**No. 23-3228
(D.C. No. 5:23-CV-03237-JWL)
(D. Kan.)**

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **HOLMES**, Chief Judge, **KELLY** and **MATHESON**, Circuit Judges.

Walter Payton, proceeding pro se, seeks a certificate of appealability (COA) to appeal from the district court's order dismissing his fourth 28 U.S.C. § 2254 habeas application for lack of jurisdiction as an unauthorized successive application. We deny a COA and dismiss this matter.

In 1998, Mr. Payton was convicted of three counts of rape in Kansas state court. He was sentenced to 712 months in prison. In 2003, he filed his first § 2254 habeas application, which the district court dismissed as time-barred. After that he filed two

* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.