

# United States Court of Appeals for the Fifth Circuit

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No. 23-10334

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United States Court of Appeals  
Fifth Circuit

**FILED**

July 21, 2023

Lyle W. Cayce  
Clerk

ANTHONY DEWAYNE JAMERSON,

*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  
the United States District Court  
for the Northern District of Texas  
USDC No. 3:21-CV-1688

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ORDER:

Anthony Dewayne Jamerson, Texas prisoner # 02259378, moves for a certificate of appealability (COA) to appeal the district court's denial and dismissal of his 28 U.S.C. § 2254 application challenging his conviction for aggravated robbery. He argues that his right to self-representation, as recognized by the Court in *Faretta v. California*, 422 U.S. 806, 835 (1975), was violated.

As a preliminary matter, Jamerson fails to reprise in his COA pleadings, and therefore abandons, his claims that the trial court erred by

commenting on the weight of the evidence and that he received ineffective assistance of appellate counsel and was denied his right to direct appeal when his appellate counsel filed a motion and brief pursuant to *Anders v. California*, 386 U.S. 738 (1967). *See Hughes v. Johnson*, 191 F.3d 607, 613 (5th Cir. 1999). He also abandons, for failing to brief, any challenge to the district court’s finding that his claim that he was denied the right to make an opening statement was defaulted and procedurally barred from federal habeas review. *See id.*

In order to obtain a COA, Jamerson must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *see Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). When the district court denies relief on the merits, an applicant must show 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). When the district court denies relief on procedural grounds, a COA should issue if an applicant establishes, 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 whether the district court was correct in its procedural ruling. *Id.*

Jamerson fails to make the required showing. *See Slack*, 529 U.S. at 484. Accordingly, his motion for a COA is DENIED. His motion to proceed in forma pauperis on appeal is likewise DENIED.

/s/ Edith Brown Clement  
EDITH BROWN CLEMENT  
*United States Circuit Judge*