

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

May 13, 2025

Lyle W. Cayce  
Clerk

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No. 25-20075

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GREGORY MONTGOMERY,

*Petitioner—Appellant,*

*versus*

ERIC GUERRERO, *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 Southern District of Texas  
USDC No. 4:23-CV-2342

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ORDER:

Gregory Montgomery, Texas prisoner # 00662723, moves for a certificate of appealability (COA) to appeal the district court's dismissal of his 28 U.S.C. § 2254 application challenging his conviction for aggravated sexual assault of a child under the age of 14. The district court dismissed Montgomery's application as barred by the one-year limitations period of 28 U.S.C. § 2244(d). In his COA pleadings, Montgomery reasserts various of his constitutional claims and also contends that he is entitled to statutory tolling under § 2244(d)(2), and equitable tolling.

No. 25-20075

To obtain a COA, Montgomery 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). Because the district court rejected the habeas application on a procedural ground, Montgomery must show “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). Montgomery has not made the requisite showing. *See id.*

His motion for a COA is DENIED.

A handwritten signature in black ink, appearing to read 'Kurt D. Engelhardt', is written over a horizontal line.

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KURT D. ENGELHARDT  
*United States Circuit Judge*