

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 16-41618
USDC No. 3:16-CV-244



A True Copy
Certified order issued Nov 01, 2017

Steph W. Cayer
Clerk, U.S. Court of Appeals, Fifth Circuit

GREGORY DONEL JOHNSON,

Petitioner-Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

Appeal from the United States District Court for the
Southern District of Texas

ORDER:

Gregory Donel Johnson, Texas prisoner # 1779137, moves for a certificate of appealability (COA) from the dismissal of his 28 U.S.C. § 2254 petition in which he challenged a prison disciplinary conviction and punishment. Johnson maintains that he was denied due process during the disciplinary proceedings and that the punishment imposed was too severe. He also contends, for the first time before this court, that the punishment implicated a protected liberty interest because the disciplinary action taken against him resulted in the loss of the opportunity to earn good time credit (including diligent participation credit) and the denial of parole. We do not

consider claims raised for the first time in a COA motion. *See Henderson v. Cockrell*, 333 F.3d 592, 605 (5th Cir. 2003).

Johnson fails to show that jurists of reason would find the district court's decision debatable or wrong. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000). He thus fails to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Accordingly, his motion for a COA is DENIED.

/s/Jennifer Walker Elrod
JENNIFER WALKER ELROD
UNITED STATES CIRCUIT JUDGE