

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TEXAS**

Arthur Wilson McDaniels v. United States

McDaniels · No. 1:25-CV-234 · Decided December 5, 2025

OPINION

McDaniels

PER CURIAM.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TEXAS

ARTHUR WILSON MCDANIELS, §

§ Movant, § § versus § CIVIL ACTION NO. 1:25-CV-234 §

UNITED STATES OF AMERICA, §

§ Respondent. §

ORDER ADOPTING THE MAGISTRATE

JUDGE'S REPORT AND RECOMMENDATION

Movant Arthur Wilson McDaniels, an inmate at the Federal Correctional Institution located in Beaumont, Texas, proceeding pro se, brought this Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255. The court referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge, for consideration pursuant to the applicable laws and orders of this court. The magistrate judge recommends dismissing the action for want of prosecution. To date, the parties have not filed objections to the Report and Recommendation. The court received and considered the Report and Recommendation of United States Magistrate Judge pursuant to such referral, along with the record, pleadings and all available evidence. After careful review, the court finds that the findings of facts and conclusion of law of the United States Magistrate Judge are correct. Accordingly, the Report and Recommendation of the United States Magistrate Judge (#9) is ADOPTED. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation. The dismissal of this action is without prejudice to Movant's ability to reinstate the action by providing the court with a current address at which he may be contacted within sixty days from the date set forth below. Furthermore, Movant is not entitled to the issuance of a certificate of appealability. An appeal from a judgment denying federal habeas corpus relief may not proceed unless a judge issues a certificate of appealability. See 28 U.S.C. § 2253; FED. R. APP. P. 22(b). The standard for granting a certificate of appealability, like that for granting a certificate of probable cause to appeal under prior law, requires the movant to make a substantial showing of the denial of a federal constitutional right. See *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); *Elizalde v. Dretke*, 362 F.3d 323, 328 (5th Cir. 2004); see also *Barefoot v. Estelle*, 463 U.S. 880, 893 (1982). In making that substantial showing, the movant need not

establish that he should prevail on the merits. Rather, he must demonstrate that the issues are subject to debate among jurists of reason, that a court could resolve the issues in a different manner, or that the questions presented are worthy of encouragement to proceed further. See *Slack*, 529 U.S. at 483-84; *Avila v. Quarterman*, 560 F.3d 299, 304 (5th Cir. 2009). If the motion was denied on procedural grounds, the movant must show that jurists of reason would find it debatable: (1) whether the motion raises a valid claim of the denial of a constitutional right, and (2) whether the district court was correct in its procedural ruling. *Slack*, 529 U.S. at 484; *Elizalde*, 362 F.3d at 328. Any doubt regarding whether to grant a certificate of appealability is resolved in favor of the movant, and the severity of the penalty may be considered in making this determination. See *Miller v. Johnson*, 200 F.3d 274, 280-81 (5th Cir. 2000). Movant has not shown that any of the issues raised by his claims are subject to debate among jurists of reason, or that a procedural ruling is incorrect. In addition, the questions 2 presented by Movant are not worthy of encouragement to proceed further. Movant has failed to make a sufficient showing to merit the issuance of a certification of appealability. Thus, a certificate of appealability will not be issued. SIGNED at Beaumont, Texas, this 5th day of December, 2025.

MARCIA A. CRONE

UNITED STATES DISTRICT JUDGE