

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 00-40104-01/02-RDR

WILLIAM LEONARD PICKARD
and CLYDE APPERSON,

Defendants.

O R D E R

This matter is presently before the court upon defendants' motion for certificate of appealability (COA). The defendants have filed notices of appeal seeking review of the court's order of January 24, 2011 which denied defendants' motion for relief under Fed.R.Civ.P. 60(b).

The defendants contend they are entitled to a COA because this court made certain errors in its opinion of January 24th and "jurists of reason have ruled otherwise on the same grounds."

There is no right to appeal in this matter unless a circuit justice or judge issues a COA. 28 U.S.C. § 2253(c)(1). To obtain a COA for his appeal, a defendant must make a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Under this standard, the defendant must show that "reasonable jurists could debate whether (or for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to

proceed further." Slack v McDaniel, 529 U.S. 473, 484 (2000) (internal quotation marks omitted).

Having carefully reviewed the defendants' motion, the court finds that the defendants have not made the requisite showing. The court finds that the defendants have failed to make a substantial showing of the denial of a constitutional right on any of the issues presented. The court notes that defendants have failed to even mention what constitutional rights were denied by the rulings of this court in the order of January 24th. Therefore, the court shall not issue a COA to the defendants.

IT IS THEREFORE ORDERED that defendants' motion for certificate of appealability (Doc. # 659) be hereby denied.

IT IS SO ORDERED.

Dated this 6th day of April, 2011 at Topeka, Kansas.

s/Richard D. Rogers
United States District Judge