

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

CHRIS ALLEN BROWNFIELD,

Petitioner,

v.

CASE NO. 10-3166-SAC

ROBERT SANDERS, et al.,

Respondents.

O R D E R

By an order dated June 21, 2011, the court denied petitioner's pro se petition for writ of habeas corpus under 28 U.S.C. § 2241, wherein petitioner sought relief from alleged error in the execution of his state sentence. Petitioner filed a notice of appeal, and paid the \$455.00 appellate filing fee.

"As mandated by federal statute, a state prisoner seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of his petition. 28 U.S.C. § 2253. Before an appeal may be entertained, a prisoner who was denied habeas relief in the district court must first seek and obtain a [certificate of appealability (COA)] from a circuit justice or judge. This is a jurisdictional prerequisite because the COA statute mandates that '[u]nless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals ....' § 2253(c)(1)." *Miller-El v. Cockrell*, 537

U.S. 322, 335-36 (2003). Because petitioner challenges his confinement pursuant to a state court judgment, he must obtain a COA for his appeal. See *Montez v. McKinna*, 208 F.3d 862, 867 (10th Cir.2000)("[A] state prisoner must obtain a COA to appeal the denial of a habeas petition, whether such petition was filed pursuant to § 2254 or § 2241, whenever the detention complained of in the petition arises out of process issued by a State court.")(quotations omitted).

A COA may issue only if a petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make this requisite showing, petitioner must demonstrate "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." *Miller-El*, 537 U.S. at 336 (quotation marks and citations omitted). The court finds petitioner makes no such showing in this case.

IT IS THEREFORE ORDERED that the court issues no certificate of appeal for petitioner's appeal.

**IT IS SO ORDERED.**

DATED: This 13th day of July 2011 at Topeka, Kansas.

s/ Sam A. Crow  
SAM A. CROW  
U.S. Senior District Judge