

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

RANDY L. BLANCHARD,

Petitioner,

vs.

WILLIAM SPERFSLAGE,

Respondent.

No. 15 cv 2085 EJM

ORDER

This matter is before the court on remand from the Court of Appeals to decide in light of Tiedman v. Benson, 122 F.3d 518 (8th Cir. 1997) whether a certificate of appealability should be issued, and if so, as to which issues. Certificate not to be issued.

In March through April 2009, Petitioner was tried and convicted in state court of first degree murder and child endangerment resulting in death in the killing of his baby daughter. The court sentenced him to life in prison for the first degree murder, and an indeterminate term not to exceed fifty years for the child endangerment, to be served concurrently, later vacated. Iowa Code §§ 707.2(5); 726.5(1)(e) (2015). His appeals were denied.

On August 31, 2015, petitioner filed for a writ of habeas corpus in this court. On June 1, 2016, this court denied that petition. Petitioner appealed, and the Court of Appeals on June 29, 2016, ordered this court to decide whether a certificate of appealability should issue, and if so, as to which issues.

Under 28 U.S.C. §2253(c)(2), a certificate of appealability may only issue if a petitioner has made a substantial showing of the denial of a constitutional right. Tiedman v. Benson, 122

F.3d 518 (8th Cir. 1997); Miller-EI v. Cockrell, 537 U.S. 322, 335-36 (2003). To make such a showing, the issues must be debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994); Miller-EI, supra.

Having thoroughly reviewed the record in this case, the court finds that the petitioner failed to make the requisite "substantial showing" with respect to the claims that he raised. 28 U.S.C. § 253(c)(2); Fed.R.App.P. 22(b). Because there is no debatable question as to the resolution of this case, an appeal is not warranted. Accordingly, the court shall not grant a certificate of appealability pursuant to 28 U.S.C. § 2253.

It is therefore

ORDERED

Certificate denied.

July 5, 2016



Edward J. McManus, Judge
UNITED STATES DISTRICT COURT