

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 09-11763
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT JANUARY 6, 2010 JOHN P. LEY ACTING CLERK
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D. C. Docket No. 06-00056-CV-J-32-MCR

ADAM JEROME DURR,

Petitioner-Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,
FLORIDA ATTORNEY GENERAL,

Respondents-Appellees.

Appeal from the United States District Court
for the Middle District of Florida

(January 6, 2010)

Before BARKETT, HULL and PRYOR, Circuit Judges.

PER CURIAM:

Adam Durr appeals pro se the denial of his petition for a writ of habeas corpus. 28 U.S.C. § 2254. We granted a certificate of appealability to resolve whether the district court, contrary to Clisby v. Jones, 960 F.2d 925, 936 (11th Cir. 1992) (en banc), failed to address Durr’s argument that “counsel was ineffective for failing to file a motion to suppress evidence seized pursuant to an unreasonable search.” In his initial brief, Durr argues the merits of counsel’s ineffectiveness, but we will not address that issue because it is outside the scope of the certificate of appealability. Rhode v. United States, 583 F.3d 1289, 1291 (11th Cir. 2009). We agree with the Secretary of the Department of Corrections that the record establishes that the district court complied with Clisby and addressed the claim of ineffective assistance alleged in Durr’s petition. We affirm the denial of Durr’s petition.

AFFIRMED.