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BENITO LUGO v. COMMISSIONER OF CORRECTION  
(AC 25512)

Bishop, DiPentima and McLachlan, Js.

Submitted on briefs April 29—officially released June 28, 2005

(Appeal from Superior Court, judicial district of  
Tolland, White, J.)

*Michael A. D'Onofrio*, special public defender, filed a brief for the appellant (petitioner).

*James E. Thomas*, state's attorney, *Melissa L. Streeto*, deputy assistant state's attorney, and *Robin Cutuli*, assistant state's attorney, filed a brief for the appellee (respondent).

*Opinion*

PER CURIAM. The petitioner, Benito Lugo, appeals following the denial of his petition for certification to appeal from the judgment dismissing his petition for a writ of habeas corpus. We dismiss the appeal.

On October 24, 1995, the petitioner pleaded guilty to one count of felony murder in violation of General Statutes § 53a-54c, and one count of conspiracy to commit murder in violation of General Statutes §§ 53a-48 and 53a-54a. He thereafter was sentenced to a total effective term of forty years incarceration. On December 10, 2001, the petitioner filed a pro se petition for a writ of habeas corpus that alleged ineffective assistance on the part of his trial counsel. Following a one day trial at which the petitioner was the only witness, the court concluded that the petitioner had not satisfied his burden of proving either deficient performance on the part of his counsel or prejudice resulting therefrom. See *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); *Johnson v. Commissioner of Correction*, 218 Conn. 403, 424, 589 A.2d 1214 (1991). Accordingly, the court dismissed the petition for a writ of habeas corpus. The court subsequently denied the petition for certification to appeal.

After a careful review of the record and briefs, we conclude that the petitioner has not demonstrated that the issues raised are debatable among jurists of reason, that a court could resolve the issues in a different manner or that the questions raised deserve encouragement

to proceed further. See *Lozada v. Deeds*, 498 U.S. 430, 431–32, 111 S. Ct. 860, 112 L. Ed. 2d 956 (1991); *Simms v. Warden*, 230 Conn. 608, 616, 646 A.2d 126 (1994).

The appeal is dismissed.

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