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CHRISTOPHER LUKOWSKI v. COMMISSIONER OF
CORRECTION
(AC 25762)

Bishop, DiPentima and Gruendel, Js.

Submitted on briefs September 28—officially released October 25, 2005

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

Emmet P. Hibson, Jr., special public defender, filed
a brief for the appellant (petitioner).

Matthew C. Gedansky, state's attorney, and *Leon F.
Dalbec* and *Angela R. Macchiarulo*, senior assistant
state's attorneys, filed a brief for the appellee
(respondent).

Opinion

PER CURIAM. The petitioner, Christopher Lukowski,
appeals following the denial of his petition for certifica-
tion to appeal from the judgment denying his petition
for a writ of habeas corpus. We dismiss the appeal.

On December 21, 2001, the petitioner pleaded guilty
to sale of marijuana and violation of probation, and
was sentenced to three years of incarceration and three
years of special parole. The petitioner filed a petition
for a writ of habeas corpus, claiming ineffective assis-
tance of counsel based on the assertion that his trial
attorney failed to explain that his sentence involved
special parole rather than probation. In denying the
petition, the court determined that the petitioner had
failed to prove that the performance of his counsel was
deficient or that he was prejudiced by the performance
of his counsel. The court found that the petitioner had
understood his sentence on the basis of the facts that
he repeatedly had assured the sentencing court that he
understood his sentence, was satisfied with the advice
of his attorney and did not have any questions. The
court further found that even if counsel's performance
had been deficient, the petitioner was not prejudiced
because, by his admission, he would not have taken his
case to trial. The court subsequently denied the petition
for certification to appeal. This appeal followed.

“In a habeas appeal, although this court cannot dis-
turb the underlying facts found by the habeas court

unless they are clearly erroneous, our review of whether the facts as found by the habeas court constituted a violation of the petitioner's constitutional right to effective assistance of counsel is plenary. . . . Faced with a habeas court's denial of a petition for certification to appeal, a petitioner can obtain appellate review of the dismissal of his petition for habeas corpus only by satisfying the two-pronged test enunciated by our Supreme Court in *Simms v. Warden*, 229 Conn. 178, 640 A.2d 601 (1994), and adopted in *Simms v. Warden*, 230 Conn. 608, 612, 646 A.2d 126 (1994). First, he must demonstrate that the denial of his petition for certification constituted an abuse of discretion. . . . Second, if the petitioner can show an abuse of discretion, he must then prove that the decision of the habeas court should be reversed on its merits. . . .

"To prove an abuse of discretion, the petitioner must demonstrate that the [resolution of the underlying claim involves issues that] are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further." (Citations omitted; internal quotation marks omitted.) *Owens v. Commissioner of Correction*, 63 Conn. App. 829, 830–31, 779 A.2d 165, cert. denied, 258 Conn. 905, 782 A.2d 138 (2001).

After a careful review of the record and briefs, we conclude that the petitioner has not demonstrated that the issues he raises on appeal 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*, supra, 230 Conn. 616.

The appeal is dismissed.