

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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No. 14-30246  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit  
**FILED**  
September 29, 2015  
Lyle W. Cayce  
Clerk

RANDY C. MARSHALL,

Petitioner - Appellant

v.

BURL CAIN, WARDEN, LOUISIANA STATE PENITENTIARY,

Respondent - Appellee

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 5:12-CV-2914

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Before BARKSDALE, SOUTHWICK, and HIGGINSON, Circuit Judges.

PER CURIAM:\*

Proceeding *pro se*, Randy C. Marshall, Louisiana prisoner # 539910, challenges the denial of habeas relief under 28 U.S.C. § 2254, concerning his conviction and life sentence for second-degree murder. Regarding the denial of relief, this court granted Marshall a certificate-of-appealability on whether his trial attorney provided ineffective assistance by failing: to adequately

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\* Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

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investigate the self-defense theory presented at trial; and to argue actual innocence at trial.

In analyzing the denial of § 2254 relief, this court reviews issues of law *de novo* and findings of fact for clear error, applying the same deference to the state court's decision as the district court under the Antiterrorism and Effective Death Penalty Act. *Ortiz v. Quarterman*, 504 F.3d 492, 496 (5th Cir. 2007).

Marshall asserts: he and his counsel decided to pursue an actual-innocence theory at trial; but, his counsel convinced him to change the theory to self-defense just before opening statements began, without time for sufficient investigation. Marshall fails, however, to produce any evidence in support of this claim. “[M]ere conclusory allegations on a critical issue are insufficient to raise a constitutional issue”. *See Koch v. Puckett*, 907 F.2d 524, 530 (5th Cir. 1990) (citation omitted) (internal quotation marks omitted). Marshall's conclusory allegations are contradicted by the record, and are insufficient to demonstrate that, in denying this claim, the state court misapplied the *Strickland v. Washington*, 466 U.S. 668, 689–94 (1984), standard for ineffective assistance of counsel.

AFFIRMED.