

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 13-14386
Non-Argument Calendar

D.C. Docket Nos. 6:13-cv-00077-BAE-GRS,
6:02-cr-00008-BAE-1

WILLIAM ERIC GREEN,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Georgia

(April 15, 2015)

Before WILLIAM PRYOR, JULIE CARNES and FAY, Circuit Judges.

PER CURIAM:

William Green, a federal prisoner, appeals the dismissal *sua sponte* of his third motion to vacate as untimely. *See* 28 U.S.C. § 2255(f). The district court

issued a certificate of appealability on two issues: (1) “Whether *Stewart v. United States*, 646 F.3d 856 (11th Cir. 2011), justifies equitable tolling of 28 U.S.C. § 2255(f)’s one year statute of limitations given Green’s diligent pursuit of his claims both pre- and post-*Stewart*”; and (2) “Whether the *Stewart* decision itself constitutes a new fact that restarts the one year limitations period.” But the certificate fails to identify an issue of constitutional magnitude. *See Spencer v. United States*, 773 F.3d 1132, 1137 (11th Cir. 2014) (en banc). We vacate the certificate of appealability and remand for the district court to consider what claims, if any, in Green’s motion “ma[k]e a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c).

VACATED AND REMANDED.