

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 15-12104
Non-Argument Calendar

D.C. Docket No. 2:14-cv-14091-KMM; 2:11-cr-14044-KMM-1

DAVID HAYDEN,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA,

Respondent - Appellee.

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

(December 20, 2016)

Before TJOFLAT, MARCUS, and JORDAN, Circuit Judges.

PER CURIAM:

David Hayden, a federal prisoner proceeding with counsel, appeals the district court's denial of his motion to vacate under 28 U.S.C. § 2255. We granted Mr. Hayden a certificate of appealability on a single issue: "Whether Hayden's appellate counsel was constitutionally ineffective for failing to raise on direct appeal the issue of whether the district court abused its discretion in admitting and publishing videos depicting child pornography to the jury in open court."

Mr. Hayden's counsel, however, failed to raise any substantive arguments concerning this issue in his nearly 50-page opening brief. Because arguments not raised in an opening brief are not properly before this Court, *See Herring v. Sec'y, Dep't of Corr.*, 397 F.3d 1338, 1342 (11th Cir. 2005), and because "the scope of our review of an unsuccessful § 2255 motion is limited to the issues enumerated in the COA," *McKay v. United States*, 657 F.3d 1190, 1195 (11th Cir. 2011), we affirm the district court's denial of the § 2255 motion.¹

AFFIRMED.

¹ We add, in an abundance of caution, that the reply brief fails to show that appellate counsel rendered constitutionally deficient performance under *Strickland v. Washington*, 466 U.S. 668 (1984), and its progeny.