

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

February 23, 2021

Lyle W. Cayce
Clerk

No. 20-30476

TROY L. HAWK,

Petitioner—Appellant,

versus

SANDY MCCAIN, *Warden, Raymond Laborde Correctional Center,*

Respondent—Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:19-CV-10939

Before WILLETT, HO, and DUNCAN, *Circuit Judges.*

PER CURIAM:*

Troy Hawk, Louisiana prisoner # 631588, moves for a certificate of appealability (COA) from the denial of his 28 U.S.C. § 2254 motion challenging his guilty plea to (1) simple burglary of an inhabited dwelling, (2) armed robbery with a firearm, and (3) illegal possession of stolen things. He argues that he is actually innocent, that his guilty plea to the crime of

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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armed robbery was invalid because an adequate factual basis for that plea was not established, and that his plea was not made knowingly and voluntarily.

To obtain a COA, Hawk must make a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Where, as here, the district court rejected his claims on the merits, he must show that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong,” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000), or that the issues he presents “deserve encouragement to proceed further,” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). Because Hawk has not made the requisite showing, his COA motion is denied.

As Hawk fails to make the required showing for a COA on his constitutional claim, we cannot consider whether the district court erred by denying an evidentiary hearing. *See United States v. Davis*, 971 F.3d 524, 534–35 (5th Cir. 2020).

COA DENIED.