

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

KEITH LARON BROOKS,

Petitioner,

vs.

Case No.: 3:12-cv-1266-J-32JRK  
3:09-cv-76-J-32JRK

UNITED STATES OF AMERICA,

Respondent.

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**ORDER**

This case is before the Court on a limited remand from the Eleventh Circuit Court of Appeals to determine whether Petitioner is entitled to a certificate of appealability (“COA”) with respect to the denial of his motion for reconsideration under Fed. R. Civ. P. 59(e). (See Docs. 47, 53).

The Court concludes that Petitioner is not entitled to a COA. A prisoner seeking a motion to vacate has no absolute entitlement to appeal a district court’s denial of his motion. 28 U.S.C. § 2253(c)(1). “A [COA] may issue... only if the applicant has made a substantial showing of the denial of a constitutional right.” Id. at § 2253(c)(2). To make such a showing, Petitioner “must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong,” Tennard v. Dretke, 542 U.S. 274, 282 (2004) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), or that “the issues presented were ‘adequate to deserve encouragement to proceed further.’” Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983)).

Petitioner has not made the requisite showing in these circumstances. Because Petitioner is not entitled to a certificate of appealability, he is not entitled to appeal in forma pauperis.

**DONE AND ORDERED** at Jacksonville, Florida this 13th day of February, 2017.



TIMOTHY J. CORRIGAN  
United States District Judge

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Copies:

United States Court of Appeals for the Eleventh Circuit  
Petitioner Keith Laron Brooks  
Counsel of record