

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

LAWRENCE MILLS

Petitioner,

v.

CASE NO. 8:16-cv-892-T-24TGW

UNITED STATES OF AMERICA,

\_\_\_\_\_ /

**ORDER**

Petitioner Lawrence Mills, represented by counsel, filed an Application for Certificate of Appealability (“COA”). (Doc.17). Upon consideration of Petitioner’s Motion to Vacate pursuant to 28 U.S.C. § 2255 as well as Petitioner’s underlying criminal case, Petitioner’s Application is denied because Petitioner has not made a showing of the denial of a constitutional right under 28 U.S.C. § 2253(c)(2).

Petitioner was sentenced as an armed career criminal under 18 U.S.C. § 924(e). Petitioner’s three prior violent felonies were two aggravated assaults under Florida Statute § 784.021 and one aggravated battery under Florida Statute § 784.045. Petitioner argues he is entitled to a COA because reasonable jurists could debate whether those convictions qualify as ACCA predicate offenses in light of Johnson v. United States, 135 S. Ct. 2551 (2015). Petitioner acknowledges that Turner v. Warden Coleman FCI (Medium), 709 F. 3d. 1328, (11<sup>th</sup> Cir. 2013), held that aggravated assault in violation of

Florida Statute §784.021 and aggravated battery in violation of Florida Statute § 784.045 are violent felonies under the ACCA's elements clause and that the Eleventh Circuit recently affirmed Turner's binding effect in United States v. Golden \_\_\_ F.3d \_\_\_, 2017 WL 343523 (11<sup>th</sup> Cir. Jan. 24, 2017), but he points to a concurring opinion in Golden suggesting Turner was wrongly decided. However, since there is currently binding precedent in the Eleventh Circuit, reasonable jurists could not find it debatable under Slack v. McDaniel, 529 U.S. 473, 478 (2000), as to whether Petitioner's convictions for aggravated assault and aggravated battery qualify as crimes of violence under § 924(e)(B)(1).

**ACCORDINGLY**, for the reasons expressed, Petitioner's Application for Certificate of Appealability is denied.

**DONE AND ORDERED** at Tampa, Florida, on February 3, 2017.

  
SUSAN C. BUCKLEW  
United States District Judge

Copies to: Counsel of Record