

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

KENNETH FLOYD PRUTTING,

Petitioner,

v.

Case No. 8:16-cv-1673-T-24TGW

UNITED STATES OF AMERICA,

Defendant.

_____ /

ORDER

This cause comes before the Court on Petitioner's Motion for a Certificate of Appealability ("COA") regarding this Court's Order (Doc. No. 12) dismissing his § 2255 motion. (Doc. No. 16). As explained below, the motion for a COA is **DENIED**.

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). Rather, a district court must first issue a COA. *Id.* "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. Specifically, he seeks a COA in order to appeal this Court's conclusions that: (1) his convictions for first and second degree robbery under Connecticut's robbery statute qualify as violent felonies; and (2) his § 2255 motion is time-barred. However, given the case law, reasonable jurists would not find the issue of whether convictions for first and second degree robbery under Connecticut's

robbery statute qualify as violent felonies debatable. Accordingly, it is ORDERED AND ADJUDGED that Petitioner's motion for a COA (Doc. No. 16) is **DENIED**.

DONE AND ORDERED at Tampa, Florida, this 1st day of February, 2017.


SUSAN C. BUCKLEW
United States District Judge

Copies to:
All Parties and Counsel of Record