

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

CARLTON T. PEASE,

Movant,

v.

Case No: 8:16-cv-3262-T-30JSS

UNITED STATES OF AMERICA,

Respondent.

ORDER

THIS CAUSE comes before the Court on the Eleventh Circuit's Order (Doc. 8) regarding Movant's appeal of this Court's Order denying Movant's Federal Rule of Civil Procedure 59(e) Motion to Alter or Amend Judgment, which this Court construed as a motion for reconsideration (Doc. 5). The Eleventh Circuit's Order explains that Movant filed a motion for certificate of appealability ("COA") for his appeal, and that the Eleventh Circuit needs this Court to first enter an order granting or denying Movant a COA on his rule 59(e) motion.¹ (Doc. 8).

Movant never requested a COA from this Court based on the denial of his rule 59(e) motion, and the Notice of Appeal (Doc. 6) fails to state the basis on which Movant appeals the Order denying the rule 59(e) motion. As such, the Court will consider whether "reasonable jurists would find the district court's assessment of the constitutional claims

¹ This Court previously declined to enter a COA when it denied Movant's § 2255 motion.

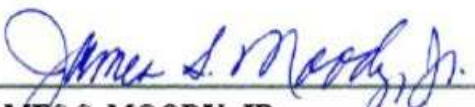
debatable or wrong,” *Tennard v. Dretke*, 542 U.S. 274, 282 (2004) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)), or that “the issues presented were adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003).

The Court concludes no COA is warranted. As explained in the Order denying the rule 59(e) motion, Movant used that motion simply as a means to raise the same arguments the Court rejected in his § 2255 motion. Because this Court previously denied the § 2255 motion on the merits (for which no COA was issued), the Court concludes the issues presented in the rule 59(e) motion do not deserve encouragement to proceed further. Accordingly, the Court declines to enter a COA for his rule 59(e) motion.

And because he is not entitled to a COA, Movant is not entitled to appeal *in forma pauperis*.

Accordingly, it is ORDERED AND ADJUDGED that Movant is not entitled to a certificate of appealability as to the Order denying his rule 59(e) motion (Doc. 4).

DONE and **ORDERED** in Tampa, Florida, this 3rd day of August, 2017.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record