

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CENTRAL DIVISION**

CEDRIC MCDONALD,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

No. C 17-3057-MWB  
(CR 14-3056-MWB-1)

**OPINION AND ORDER  
REGARDING CERTIFICATE OF  
APPEALABILITY**

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This case is before me on remand from the Eighth Circuit Court of Appeals to consider whether a certificate of appealability should issue in light of *Tiedeman v. Benson*, 122 F.3d 518 (8th Cir. 1997). I inadvertently omitted a determination on the certificate of appealability issue in my August 20, 2018, Opinion And Order Regarding Petitioner's Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence. In that Opinion And Order, I granted petitioner McDonald's § 2255 Motion to the extent that his sentence of 210 months was corrected to 120 months, the maximum sentence that could have been imposed without an ACCA enhancement; denied the part of his § 2255 Motion claiming ineffective assistance of counsel for failing to challenge the determination that two prior second-degree robbery convictions, under Iowa law, were also predicate ACCA offenses; and denied the part of his § 2255 Motion claiming ineffective assistance of counsel for failing to object to the court's use of a video that addressed racial prejudice.

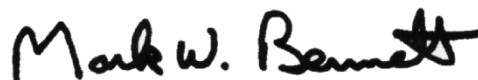
My denial, in part, of McDonald's claims for § 2255 relief raises the question of whether or not he is entitled to a certificate of appealability on those claims. In order to obtain a certificate of appealability on those claims, McDonald must make a substantial

showing of the denial of a constitutional right. See *Miller-El v. Cockrell*, 537 U.S. 322 (2003); *Garrett v. United States*, 211 F.3d 1075, 1076-77 (8th Cir. 2000); *Mills v. Norris*, 187 F.3d 881, 882 n.1 (8th Cir. 1999); *Carter v. Hopkins*, 151 F.3d 872, 873-74 (8th Cir. 1998); *Ramsey v. Bowersox*, 149 F.3d 749 (8th Cir. 1998); *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997). “A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings.” *Cox*, 133 F.3d at 569. Moreover, the United States Supreme Court reiterated in *Miller-El v. Cockrell* that, “[w]here a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” 537 U.S. at 338 (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). For essentially the reasons set out in my August 20, 2018, Opinion And Order, I now conclude that McDonald has failed to make a substantial showing that denial of two of his claims is debatable among reasonable jurists, that a court could resolve any of the issues raised in those claims differently, or that any question raised in those claims deserves further proceedings. Consequently, a certificate of appealability is denied as to McDonald’s claims for § 2255 relief that I denied. See 28 U.S.C. § 2253(c)(1)(B); *Miller-El*, 537 U.S. at 335-36; *Cox*, 133 F.3d at 569.

THEREFORE, no certificate of appealability will issue for any claim or contention in this case.

**IT IS SO ORDERED.**

**DATED** this 15th day of October, 2018.



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MARK W. BENNETT  
U.S. DISTRICT COURT JUDGE  
NORTHERN DISTRICT OF IOWA