

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

XAVIER D. ECCLESTON

Petitioner,

v.

UNITED STATES OF AMERICA

Respondent.

*
*
*
*
*
*
*
*

**Civil No. PJM 17-729
Criminal No. PJM 11-0567**

MEMORANDUM OPINION

By Memorandum Opinion and Order dated March 23, 2018, the Court denied Petitioner Xavier D. Eccleston’s Motion to Vacate or Correct Illegal Sentence, filed pursuant to 18 U.S.C. § 2255 (ECF No. 522). By oversight, the Court neglected to address the matter of a Certificate of Appealability per 28 U.S.C. § 2253(c)(2).

On April 26, 2018, Eccleston filed a Motion for Certificate of Appealability (ECF No. 536) and a Notice of Appeal (ECF No. 537). The United States Court of Appeals for the Fourth Circuit immediately remanded the appeal to this Court “for the limited purpose of permitting the USDC to supplement the record with an order granting or denying a certificate of appealability.” ECF No. 540. Having considered the matter, the Court now **DENIES** Petitioner’s Motion for a Certificate of Appealability. ECF No. 536.

Rule 11(a) of the Rules Governing § 2255 Cases provides that the district court “must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” A certificate of appealability will not issue absent “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A petitioner satisfies this standard by demonstrating that reasonable jurists would find that any assessment of the constitutional claims by the district court is debatable or wrong, and that any dispositive procedural ruling by the

district court is likewise debatable. *See Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683-84 (4th Cir. 2001).

The Court has considered the record and finds that Petitioner has not made the requisite showing. He asserted that his attorney provided him with ineffective assistance in violation of *Strickland v. Washington*, 466 U.S. 668 (1984). His claim, rooted in factual and not legal disputes, was wholly without merit and failed to satisfy the pertinent “reasonable jurists” standard. Accordingly, the Court declines to issue a certificate of appealability. Petitioner’s Motion for Certificate of Appealability, ECF No. 536, is **DENIED**.

A separate Order will **ISSUE**.

/s/

PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE

May 2, 2018