

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JOE EDWARD WEBB

Petitioner,

v.

UNITED STATES OF AMERICA

Respondent.

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**No. 3:12-0398
Judge Trauger**

ORDER

On March 6, 2014, an order (Docket Entry No. 45) was entered dismissing the instant § 2255 habeas corpus action as untimely. In the order, the Court determined that a certificate of appealability should not issue.

Since the entry of this order, the petitioner has filed a “Motion to Partially Reconsider Denial of Certificate of Appealability” (Docket Entry No. 47), to which the government has submitted a Response (Docket Entry No. 49).

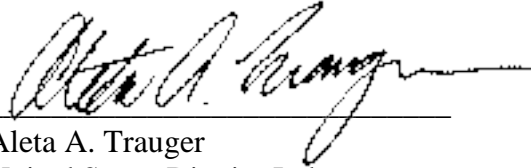
When a district court has denied a habeas corpus petition on procedural grounds without reaching the petitioner’s underlying constitutional claims, a certificate of appealability will issue only if the petitioner can show (1) that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right *and* (2) that jurists of reason would find it debatable whether the procedural ruling was correct. Slack v. McDaniel, 529 U.S. 473, 484 (2000).

In this case, the petition was clearly filed well beyond the expiration of the one year limitation period applicable to § 2255 habeas corpus actions. The petitioner failed to establish that a tolling of the limitation period would be appropriate in this instance. Therefore, reasonable jurists

would not find the untimeliness of this action debatable.

Accordingly, petitioner's "Motion to Partially Reconsider Denial of Certificate of Appealability" is hereby DENIED.

It is so ORDERED.

A handwritten signature in black ink, appearing to read "Aleta A. Trauger", is written over a horizontal line. The signature is fluid and cursive.

Aleta A. Trauger
United States District Judge