FILED
United States Court of Appeals
Tenth Circuit

July 8, 2016

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. MARCUS L. QUINN, Defendant - Appellant.	No. 16-3059 (D.C. Nos. 2:15-CV-02659-KHV and 2:10-CR-20129-KHV-3) (D. Kan.)

ORDER
DENYING CERTIFICATE OF APPEALABILITY

Before **KELLY**, **HOLMES**, and **MORITZ**, Circuit Judges.

Defendant-Appellant Marcus Quinn, a federal inmate appearing pro se, seeks a certificate of appealability (COA) allowing him to appeal from the district court's overruling of his 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence, as well as the court's overruling of his motion to amend his § 2255 motion to add additional claims. United States v. Quinn, 2016 WL 777923 (D. Kan. Feb. 26, 2016). We deny a COA and dismiss the appeal.

Mr. Quinn was convicted of ten counts related to a cocaine drug conspiracy and sentenced to 360 months' imprisonment. This court affirmed on direct appeal. United States v. Brooks, 736 F.3d 921 (10th Cir. 2013). Mr. Quinn subsequently filed a § 2255 motion, alleging ineffective assistance of trial and

appellate counsel. He later filed an Amended § 2255, which the district court construed as a motion to amend. The court overruled his § 2255 motion, overruled the motion to amend, and denied a COA. Mr. Quinn timely appeals.

For a COA to issue, the applicant must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To satisfy this standard, Mr. Quinn must demonstrate that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000). Where the district court's denial is based upon a procedural ground, the movant also must demonstrate that the district court's procedural ruling was debatable or wrong. Id.

In his request for a COA, Mr. Quinn argues that the jury should have been given a special verdict form for drug quantity based upon Alleyne v. United States, ––– U.S. ––––, 133 S. Ct. 2151 (2013). But we have rejected the idea that Alleyne applies to sentencing under the advisory guidelines that does not involve increasing a mandatory minimum. United States v. Cassius, 777 F.3d 1093, 1097–98 (10th Cir. 2015). Accordingly, Mr. Quinn has not met the standard for the grant of a COA on this issue.

For substantially the reasons given by the district court, Quinn, 2016 WL 777923, we DENY a COA and DISMISS the appeal.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge