

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 17-10581

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

ANDRECO LOTT,

Defendant - Appellant

Appeal from the United States District Court
for the Northern District of Texas

ON MOTION FOR RECONSIDERATION AND REHEARING EN BANC

Before DAVIS, CLEMENT and OWEN, Circuit Judges.

PER CURIAM:

() The Motion for Reconsideration is DENIED and no member of this panel nor judge in regular active service on the court having requested that the court be polled on Rehearing En Banc, (FED. R. APP. P. and 5TH CIR. R. 35) the Petition for Rehearing En Banc is also DENIED.

() The Motion for Reconsideration is DENIED and the court having been polled at the request of one of the members of the court and a majority of the judges who are in regular active service and not disqualified not having voted in favor, (FED. R. APP. P. and 5TH CIR. R. 35) the Petition for Rehearing En Banc is also DENIED.

() A member of the court in active service having requested a poll on the reconsideration of this cause en banc, and a majority of the judges in active service and not disqualified not having voted in favor, Rehearing En Banc is DENIED.

ENTERED FOR THE COURT:

Quinton A. Owen
UNITED STATES CIRCUIT JUDGE

3-13-18

W. Herron
W. Herron

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A True Copy
Certified order issued Mar 06, 2018

Tyler W. Caylor
Clerk, U.S. Court of Appeals, Fifth Circuit

Plaintiff-Appellee

UNITED STATES OF AMERICA,

v.

ANDRECO LOTT,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas

ORDER:

Andreco Lott, federal prisoner # 27068-177, is serving a 1,111-month prison sentence for multiple counts related to robbery, bank robbery, and using and carrying a firearm during a crime of violence. He now moves this court for a certificate of appealability (COA) so that he may appeal the district court's decision to deny his motion under Federal Rule of Civil Procedure 60(b) seeking relief from the 2005 denial of his 28 U.S.C. § 2255 motion. In the Rule 60(b) motion, Lott contended that the district court neglected to address all of his § 2255 claims and improperly decided the motion without holding an evidentiary hearing.

The court will grant Lott a COA if he makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *see Buck v. Davis*, 137 S. Ct. 759, 773 (2017). That is, he must establish that reasonable jurists

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could disagree with the decision to deny relief or that the issues he presents deserve encouragement to proceed further. *See Buck*, 137 S. Ct. at 774. Because Lott seeks a COA from the denial of a Rule 60(b) motion, he must demonstrate that reasonable jurists could conclude that the district court abused its discretion in denying him relief from the judgment. *See id.* at 777; *Hernandez v. Thaler*, 630 F.3d 420, 428 (5th Cir. 2011). Lott has not made the required showing. Accordingly, his motion for a COA is DENIED.

/s/ *Priscilla R. Owen*

PRISCILLA R. OWEN
UNITED STATES CIRCUIT JUDGE