No. 20-3388

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

RONALD R. MYLES, JR.,

Petitioner-Appellant,

v.

UNITED STATES OF AMERICA,

Respondent-Appellee.

ORDER

Exhibit (H)

Before: SURHEINRICH, Circuit Judge.

Ronald R. Myles, Jr., a pro se federal prisoner, appeals a district court's judgment denying his 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence. Myles has filed an application for a certificate of appealability ("COA"). *See* Fed. R. App. P. 22(b). He also moves to proceed in forma pauperis ("IFP") on appeal. *See* Fed. R. App. P. 24(a)(5).

After Myles robbed an Ohio bank, a warrant for his arrest was issued on June 6, 2016. When he robbed a second bank, police apprehended him at a hotel, obtained a search warrant on June 17, 2016, for his hotel room and car, and seized over $137,000 in cash and a Mercedes. A county grand jury then indicted him on charges of aggravated robbery.

At a preliminary hearing in state court, Myles asked whether the June 6th warrant was the latest warrant and argued that it permitted only his arrest and not the seizure of his property. He then requested that the state charges be dismissed for lack of jurisdiction. The state judge responded that the June 6th warrant "was the latest one that was filed" and directed Myles to submit a written motion to dismiss. Myles did so, but the judge never ruled on the motion because the State dismissed the case due to the initiation of the federal prosecution against Myles for armed bank robbery.

Exhibit (H)

After opting to proceed pro se in federal court, Myles moved to suppress the evidence seized at the hotel. Among other things, he argued that the state judge's comment at the preliminary hearing indicated that the June 17th warrant had not yet been issued at the time of the search. The district court denied his motion, finding in part that the June 17th warrant had been issued on that date but filed later and that the warrant was supported by probable cause.

At trial, a jury convicted Myles of two counts of armed bank robbery. *See* 18 U.S.C. § 2113(a), (d). The district court imposed a sentence of 222 months in prison, three years of supervised release, and $145,468 in restitution.

On appeal, Myles argued that the district court should have granted his motion to suppress pursuant to the *Rooker-Feldman*[1] and res judicata doctrines based on the state judge's comment that the June 6th warrant "was the latest one that was filed." This court affirmed the district court's judgment, reasoning that the *Rooker-Feldman* and res judicata doctrines did not apply because the state court did not address Myles's argument on the merits and did not issue a decision. *United States v. Myles*, No. 17-3817 (6th Cir. Feb. 21, 2019) (order), *cert. denied*, 139 S. Ct. 2679 (2019). (applying *United States ex rel. Sheldon v. Kettering Health Network*, 816 F.3d 399, 415 (6th Cir. 2016); *Berry v. Schmitt*, 688 F.3d 290, 299 (6th Cir. 2012)). Furthermore, the United States government was not a party to the state action. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005); *see also Kettering Health Network*, 816 F.3d at 415.

Undeterred, Myles filed a § 2255 motion, asserting that the federal government's use of evidence obtained from the search on June 17, 2016, violated the *Rooker-Feldman* doctrine, the doctrine of res judicata, and the Full Faith and Credit Act, 28 U.S.C. § 1738. The district court sua sponte denied the § 2255 motion because Myles was attempting to relitigate an issue raised and rejected on direct appeal. Myles moved to alter or amend the judgment, arguing that he had not previously raised an argument pursuant to § 1738. *See* Fed. R. Civ. P. 59(e). The district court

[1] *See D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923).

Exhibit (H)

denied the motion, again noting that the state court had never ruled on whether the June 6th arrest warrant was the sole warrant.

In his COA application, Myles reasserts his arguments that the federal government's use of evidence obtained from the search on June 17, 2016, violated the *Rooker-Feldman* doctrine, the doctrine of res judicata, and § 1738.

An individual seeking a COA is required to make a substantial showing of the denial of a federal constitutional right. *See* 28 U.S.C. § 2253(c)(2). "A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). When the appeal concerns a district court's procedural ruling, a COA should issue if the petitioner demonstrates "that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Jurists of reason would agree that Myles cannot relitigate his claims based on the *Rooker-Feldman* and res judicata doctrines because no exceptional circumstances exist. *See Jones v. United States*, 178 F.3d 790, 796 (6th Cir. 1999). His claim based on § 1738 does not deserve encouragement to proceed further because he failed to raise it on direct appeal and has not demonstrated cause to excuse his default or actual innocence. *See Massaro v. United States*, 538 U.S. 500, 504 (2003); *Bousley v. United States*, 523 U.S. 614, 622 (1998).

Accordingly, the court **DENIES** Myles's COA application. His IFP motion is **DENIED** as moot.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

Exhibit (I)

No. 20-3388

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Oct 20, 2020
DEBORAH S. HUNT, Clerk

RONALD R. MYLES, JR.,

Petitioner-Appellant,

v.

UNITED STATES OF AMERICA,

Respondent-Appellee.

ORDER

Before: SUTTON, COOK, and WHITE, Circuit Judges.

Ronald R. Myles, Jr., a pro se federal prisoner, petitions this court to rehear its order of June 11, 2020, denying his application for a certificate of appealability ("COA"). *See* Fed. R. App. P. 22(b).

This court denied Myles's COA application because he did not make a substantial showing of the denial of a federal constitutional right. *See* 28 U.S.C. § 2253(c)(2).

After careful consideration, we conclude that the court did not overlook or misapprehend any point of law or fact when it denied Myles's COA application. *See* Fed. R. App. P. 40(a)(2).

Accordingly, we **DENY** Myles's petition for rehearing.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

Exhibit (D)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

United States of America,

Plaintiff,

-vs-

Ronald R. Myles,

Defendant.

Case No. 3:16 CR 251
3:19 CV 2889

ORDER DENYING
SECTION 2255 MOTION

JUDGE JACK ZOUHARY

Defendant was sentenced in July 2017 (Doc. 104). On appeal, the Sixth Circuit affirmed this Court's denial of Defendant's motion to suppress evidence and return property (Doc. 132). He now moves to vacate his sentence under 28 U.S.C. § 2255 (Doc. 136). In doing so, Defendant advances the same arguments rejected by the Sixth Circuit on his direct appeal -- that the use of evidence obtained by state-level authorities in his federal case violated *res judicata* and *Rooker-Feldman* (*id.* at 4–13). "A § 2255 motion may not be used to relitigate an issue that was raised on appeal absent highly exceptional circumstances." *United States v. Brown*, 62 F.3d 1418, at *1 (6th Cir. 1995). This is not one of those circumstances. *See Giraldo v. United States*, 54 F.3d 776, at *2 (6th Cir. 1995), *cert. denied*, 516 U.S. 892 (1995).

Defendant's Motion (Doc. 136) is denied. This Court certifies there is no basis upon which to issue a certificate of appealability. *See* 28 U.S.C. § 2253(c). Further, an appeal from this Order could not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

s/ *Jack Zouhary*
JACK ZOUHARY
U. S. DISTRICT JUDGE

December 27, 2019

I hereby certify that this instrument is a true and correct copy of the original on file in my office.
Attest: Sandy Opacich, Clerk
U.S. District Court
Northern District of Ohio

By: _____
Deputy Clerk