

United States Court of Appeals for the Fifth Circuit

No. 19-40811

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ROLANDO VILLARREAL,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:16-CV-299

ORDER:

Rolando Villarreal, federal prisoner # 98152-279, pleaded guilty of possessing a firearm after a felony conviction and was sentenced to 165 months and 26 days of imprisonment after the district court determined that he was subject to the enhanced sentencing range of the Armed Career Criminal Act (ACCA). The district court dismissed as untimely Villarreal's 28 U.S.C. § 2255 motion, in which he challenged the application of the ACCA in light of *Johnson v. United States*, 576 U.S. 591 (2015). Villarreal now seeks a certificate of appealability (COA) to challenge this ruling.

To obtain a COA, Villarreal must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*,

529 U.S. 473, 483-84 (2000) (28 U.S.C. § 2253 application). When a district court rejects a claim on procedural grounds, such as limitations, we will issue a COA only if the movant “shows, at least, 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*, 529 U.S. at 484.

Villarreal has not made the requisite showing that reasonable jurists could debate whether his petition states a valid claim of the denial of a constitutional right. Accordingly, his motion for a COA is DENIED.



STUART KYLE DUNCAN
United States Circuit Judge