

United States Court of Appeals  
for the Fifth Circuit

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No. 21-30529

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United States Court of Appeals  
Fifth Circuit

**FILED**

April 6, 2022

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JAMES STACEY HARBER,

*Defendant—Appellant.*

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Application for Certificate of Appealability from the  
United States District Court for the Western District of Louisiana  
USDC No. 6:20-CV-55  
USDC No. 6:16-CR-129-1

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Before SMITH, HIGGINSON, and WILLETT, *Circuit Judges.*

PER CURIAM:

James Stacey Harber, federal prisoner #19626-035, seeks a certificate of appealability (COA) to challenge the denial of his 28 U.S.C. § 2255 motion. Harber filed the § 2255 motion to attack his guilty plea convictions of three counts of sexual exploitation of children and one count of possession of child pornography, for which he was sentenced to a total of 70 years of imprisonment.

Renewing claims raised in the district court, Harber argues that his trial counsel was ineffective at the guilty plea phase because he advised

Harber that he would receive a sentence of imprisonment that did not exceed 15 years, which induced him to plead guilty. Harber claims that his trial counsel was ineffective in the sentencing phase because counsel failed to introduce character letters, failed to maintain objections to the Presentence Report, and failed to effectively argue that his sentence was disproportionate. Harber also argues that he was entitled to an evidentiary hearing on the above claims.

Because Harber fails to “demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong,” a COA is DENIED. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). As Harber fails to make the required showing for a COA, we do not reach whether the district court erred by denying an evidentiary hearing. *See United States v. Davis*, 971 F.3d 524, 534-35 (5th Cir. 2020), *cert. denied*, 142 S. Ct. 122 (2021).