

Appendix

Ninth Circuit's Order Denying Request for Certificate of Appealability (November 7, 2017)	1a
District Court's Order Declining Issuance of Certificate of Appealability (August 22, 2017)	4a
District Court's Order Denying Petitioner's Motion to Vacate, Set Aside, or Correct Sentence Under 28 U.S.C. § 2255	5a

Selected docket entries for case 17-56174

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Filed	Document Description	Page	Docket Text
11/07/2017	<u>5</u> Main Document	2	Filed order (BARRY G. SILVERMAN and SANDRA S. IKUTA) The request for a certificate of appealability (Docket Entry No. [4]) is denied because appellant has not made a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); see also Miller-El v. Cockrell, 537 U.S. 322, 327 (2003).Any pending motions are denied as moot.DENIED. [10646451] (JBS)

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 7 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

STEVE LOREN SCOTT, AKA Scottie,
AKA Seal L,

Defendant-Appellant.

No. 17-56174

D.C. Nos. 2:16-cv-09541-TJH
2:02-cr-00938-R-12

Central District of California,
Los Angeles

ORDER

Before: SILVERMAN and IKUTA, Circuit Judges.

The request for a certificate of appealability (Docket Entry No. 4) is denied because appellant has not made a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *see also Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

Any pending motions are denied as moot.

DENIED.

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8 **United States District Court**
9 **Central District of California**
10 **Western Division**
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12 STEVE LOREN SCOTT,
13 Petitioner,

14 v.

15 UNITED STATES OF AMERICA,
16 Respondent.
17
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CV 16-09541 TJH
CR02-0938-R

Order

19 The Court has considered the Ninth Circuit Court of Appeals's remand for the
20 limited purpose of granting or denying a certificate of appealability.

21 This Court may issue a certificate of appealability "only if the applicant has made
22 a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).
23 Such a showing requires the petitioner to "demonstrate that the issues are debatable
24 among jurists of reason; that a court could resolve the issues [in a different manner];
25 or that the questions are adequate to deserve encouragement to proceed further."
26 *Lambright v. Stewart*, 220 F.3d 1022, 1025 (9th Cir. 2000) (alterations in original,
27 emphasis omitted). Petitioner has not made a substantial showing of the denial of a
28 constitutional right under any of the above bases.

1 Accordingly,

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3 It is Ordered that the District Court declines to issue a certificate of
4 appealability.

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6 It is Further Ordered that the Clerk of Court shall convey a copy of this
7 order to the Ninth Circuit Court of Appeals.

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9 Date: August 22, 2017

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11 Terry J. Hatter, Jr.
12 Senior United States District Judge
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United States District Court
Central District of California
Western Division

STEVE LOREN SCOTT,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

CV 16-09541 TJH
CR 02-00938 R

Order

JS-6

The Court has considered Petitioner Steve Loren Scott's motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255, as well as Respondent's motion to dismiss, together with the moving and opposing papers.

Petitioner challenged his sentence, contending that *Johnson v. United States*, 135 S. Ct. 2551 (2015), applied to the identically-worded "residual clause" in the career offender definition of a "crime of violence" in U.S.S.G. § 4B1.2(a)(2). On March 6, 2017, the Supreme Court issued its decision in *Beckles v. United States*, 137 S. Ct. 886 (2017), holding that the advisory Sentencing Guidelines are not subject to a due process vagueness challenge. 137 S. Ct. at 895. The Court held that unlike the Armed Career Criminal Act, which was subject to the Court's decision in *Johnson*, the advisory

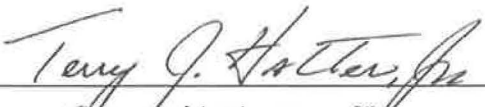
1 Guidelines “merely guide the exercise of a court’s discretion in choosing an appropriate
2 sentence within the statutory range.” *Beckles*, 137 S. Ct. at 892. Indeed, on this basis,
3 the Supreme Court held that § 4B1.2(a)(2) specifically was not void for vagueness.
4 *Beckles*, 137 S. Ct. at 895. As a result, Petitioner’s motion is foreclosed by *Beckles*.

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6 Accordingly,

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8 **It is Ordered** that the motion to vacate, set aside, or correct his sentence under
9 28 U.S.C. § 2255 be, and hereby is, **Denied**.

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11 **It is Further Ordered** that Respondent’s motion to dismiss be, and hereby is,
12 **Denied** as moot.

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14 Date: July 28, 2017

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17 **Terry J. Haller, Jr.**
Senior United States District Judge

18 CC:BOP
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