

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 25-1167

Michael Leon Tittle, also known as Michael Anthony Tittle

Petitioner - Appellant

v.

United States of America

Respondent - Appellee

Appeal from U.S. District Court for the Southern District of Iowa - Central
(4:24-cv-00457-RGE)

JUDGMENT

Before SMITH, ERICKSON, and STRAS, Circuit Judges.

This appeal comes before the court on appellant's application for a certificate of appealability. The court has carefully reviewed the original file of the district court, and the application for a certificate of appealability is denied. The appeal is dismissed.

March 28, 2025

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

A.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

MICHAEL LEON TITTLE, Petitioner, v. UNITED STATES OF AMERICA, Defendant.	No. 4:24-cv-00457-RGE ORDER DENYING PETITIONER'S MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE UNDER 28 U.S.C. § 2255
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Petitioner Michael Leon Tittle seeks relief under 28 U.S.C. § 2255 to vacate, set aside, or correct the sentence imposed in his criminal case—*United States v. Tittle*, No. 4:23-cr-00094-RGE-WPK (S.D. Iowa). Pet'r's Mot. to Vacate, Set Aside, or Correct Sentence Under 28 U.S.C. § 2255, ECF No. 1. The Court conducts the following initial review. Finding Tittle's claim does not have any arguable merit, the Court summarily dismisses the petition and denies a certificate of appealability.

I. PROCEDURAL HISTORY

In 2023, a grand jury in the Southern District of Iowa returned an indictment charging Tittle with controlled substance and firearm offenses. Redacted Indictment, No. 4:23-cr-00094, ECF No. 20. Tittle signed a plea agreement and pleaded guilty to conspiracy to distribute a controlled substance, in violation of 21 U.S.C. §§ 821(a)(1), (b)(1)(A) and 846. Plea Agreement ¶ 1, No. 4:23-cr-00094, ECF No. 75. The Court sentenced Tittle to 240 months of imprisonment. Redacted Indictment 2, No. 4:23-cr-00094, ECF No. 111. Tittle did not appeal.

Tittle now moves to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. ECF No. 1.

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II. LEGAL STANDARD

Title 28 of the United States Code, section 2255(a), provides:

A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

Section 2255 does not provide a remedy for “all claimed errors in conviction and sentencing.” *United States v. Addonizio*, 442 U.S. 178, 185 (1979). Rather, § 2255 is intended to redress only “fundamental defect[s] which inherently result[] in a complete miscarriage of justice” and “omission[s] inconsistent with the rudimentary demands of fair procedure.” *Hill v. United States*, 368 U.S. 424, 428 (1962); *see also United States v. Apfel*, 97 F.3d 1074, 1076 (8th Cir. 1996) (“Relief under 28 U.S.C. § 2255 is reserved for transgressions of constitutional rights and for a narrow range of injuries that could not have been raised on direct appeal and, if uncorrected, would result in a complete miscarriage of justice.”). A § 2255 claim is a collateral challenge that is not interchangeable with a direct appeal, and an error that could be reversed on direct appeal “will not necessarily support a collateral attack on a final judgment.” *United States v. Frady*, 456 U.S. 152, 165 (1982) (internal quotations marks omitted) (quoting *Addonizio*, 442 U.S. at 184).

Section 2255 motions are subject to an initial review by the district court. Rule 4, Rules Governing § 2255 Proceedings. “If it plainly appears from the motion, any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief, the [court] must dismiss the motion and direct the clerk to notify the moving party.” Rule 4(b), Rules Governing § 2255 Proceedings. Conversely, if the movant’s claims have arguable merit, “the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto.”

28 U.S.C. § 2255(b). Finally, pro se documents must be liberally construed. *See United States v. Sellner*, 773 F.3d 927, 932 (8th Cir. 2014).

The Sixth Amendment to the United States Constitution provides, “[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel.” U.S. Const. amend. VI. The Supreme Court has made clear “the right to counsel is the right to the effective assistance of counsel.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984) (internal quotation marks omitted) (quoting *McMann v. Richardson*, 397 U.S. 759, 771 n.14 (1970)). A defendant must demonstrate both deficient performance and prejudice to show he or she has been denied the effective assistance of counsel. *Id.* at 687. A court does not need to analyze both *Strickland* prongs when “the defendant makes an insufficient showing on one.” *Id.* at 697; *accord United States v. Lee*, 715 F.3d 215, 221 (8th Cir. 2013).

III. DISCUSSION

Tittle seeks to vacate, set aside, or correct his sentence, claiming he received ineffective assistance of counsel. ECF No. 1 at 5–6. For the reasons set forth below, the Court concludes Tittle’s arguments fail. Additionally, because “the motion, files and records of the case establish conclusively that [Tittle] is not entitled to relief,” the Court determines an evidentiary hearing is unnecessary. *Kingsberry v. United States*, 202 F.3d 1030, 1032 (8th Cir. 2000).

Tittle asserts counsel was ineffective for failing “to explain[] the law, review[] the evidence (none)[,] and discuss[] options” with Tittle. ECF No. 1 at 5. He claims his “attorney was woefully ineffective” because “[Tittle] was told to plead out or face ‘Life’ in prison.” *Id.* Tittle also states counsel “did nothing to defend [Tittle]” and “did no investigation, no negotiating, absolutely nothing.” *Id.* Tittle’s claim fails because it is contrary to the record.

A petitioner’s allegations need not be accepted as true if “they are contradicted by the record, inherently incredible, merely conclusions, or would not entitle the petitioner to relief.”

Garcia v. United States, 679 F.3d 1013, 1014 (8th Cir. 2012). In the plea agreement, Tittle indicated he “ha[d] discussed th[e] case and th[e] plea with [his] attorney” and that he “[wa]s satisfied with the representation provided by [his] attorney,” “ha[d] no complaint about the time or attention [his] attorney ha[d] devoted to th[e] case nor the advice the attorney ha[d] given.” Plea Agreement ¶ 29, No. 4:23-cr-00094, ECF No. 75. The plea agreement further memorializes Tittle’s “satisf[action] with the services of [his] attorney with regard to this Plea Agreement and other matters associated with this case.” *Id.* ¶ 33.

Regardless of whether Tittle has demonstrated defense counsel deficiently performed, Tittle fails to demonstrate prejudice. *Cf. Strickland*, 466 U.S. at 687. Other than a self-serving, conclusory statement, Tittle makes no attempt to show—and nothing in the record indicates—how this “proceeding would have been different” had counsel complied with Tittle’s representation expectations. *Strickland*, 466 U.S. at 694.

Tittle is not entitled to relief.

IV. CERTIFICATE OF APPEALABILITY

Before a petitioner can appeal a final order in a proceeding under § 2255 to the court of appeals, a court must issue a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B). Such certificate may be issued if “the applicant has made a substantial showing of the denial of a constitutional right.” *Id.* § 2253(c)(2). The certificate must indicate “which specific issue or issues satisfy the [substantial] showing.” *Id.* § 2253(c)(3). To meet the “substantial showing” standard, the petitioner must demonstrate “that ‘a reasonable jurist’ would find the district court ruling on the constitutional claim ‘debatable or wrong.’” *Winfield v. Roper*, 460 F.3d 1026, 1040 (8th Cir. 2006) (quoting *Tennard v. Dretke*, 542 U.S. 274, 276 (2004)); *see also Randolph v. Kemna*, 276 F.3d 401, 403 n.1 (8th Cir. 2002) (“[T]he petitioner ‘must demonstrate that the issues are debatable among jurists of reason; that a court could resolve the issues [in a different

manner]; or that the questions are adequate to deserve encouragement to proceed further.”
(citation omitted)).

Here, Tittle cannot show that reasonable jurists would disagree or debate whether the issues presented should have had a different outcome. The Court denies a certificate of appealability.

V. CONCLUSION

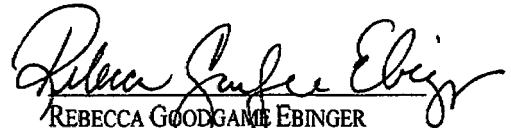
The Court finds Tittle is not entitled to relief under 28 U.S.C. § 2255.

IT IS ORDERED that Petitioner Michael Leon Tittle’s Motion to Vacate, Set Aside, or Correct Sentence Under 28 U.S.C. § 2255, ECF No. 1, is **DENIED**. The Clerk of Court shall enter judgment in favor of Respondent United States of America.

IT IS FURTHER ORDERED that a Certificate of Appealability is **DENIED**.

IT IS SO ORDERED.

Dated this 8th day of January, 2025.


REBECCA GOODGAME EBINGER
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA**

Michael Leon Tittle

CIVIL NUMBER: 4:24-cv-00457-RGE

Petitioner,

v.

JUDGMENT IN A CIVIL CASE

United States of America

Respondent,

☒ **DECISION BY COURT.** This action came before the Court. The matter has been fully submitted and a decision has been rendered.

IT IS ORDERED AND ADJUDGED:

Petitioner's Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 is denied. Judgment entered in favor of respondent against petitioner. Case closed. Certificate of appealability is denied.

Date: January 10, 2025

CLERK, U.S. DISTRICT COURT

/s/ B.German

By: Deputy Clerk

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