

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 10, 2025

Lyle W. Cayce
Clerk

No. 25-40116

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MATTHEW LEE SEPULVEDA,

Defendant—Appellant.

Application for Certificate of Appealability
the United States District Court
for the Southern District of Texas
USDC No. 7:24-CV-244
USDC No. 7:19-CR-2120-1

UNPUBLISHED ORDER

Before JONES, RICHMAN, and RAMIREZ, *Circuit Judges*.

PER CURIAM:

Matthew Lee Sepulveda, federal prisoner # 02706-579, seeks a certificate of appealability (COA) to appeal the district court's denial of his 28 U.S.C. § 2255 motion, which challenged his convictions on two counts of depriving a person of rights under the color of law.

No. 25-40116

As an initial matter, Sepulveda raises the following claims that were not presented in his § 2255 motion: (1) his post-trial counsel rendered ineffective assistance by failing to refile his motion for a new trial in the district court; and (2) the Government failed to turn over evidence of a victim's arrest in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). Because Sepulveda failed to raise these claims in the district court, we do not consider them. *See Black v. Davis*, 902 F.3d 541, 545-46 (5th Cir. 2018).

Otherwise, a COA may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *see Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). Where, as here, the district court denies relief on the merits, the movant must show that jurists of reason could debate the district court's resolution of his constitutional claims or that the issues were adequate to deserve encouragement to proceed further. *See Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). Sepulveda has not made the required showing. Accordingly, his motion for a COA is denied.

Because Sepulveda fails to make the required showing for a COA on his constitutional claims, 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).

COA DENIED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

September 10, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 25-40116 USA v. Sepulveda
USDC No. 7:24-CV-244

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk

By: Rebecca Andry
Rebecca Andry, Deputy Clerk
504-310-7638

Mr. Carlos Andres Garcia Sr.
Mr. Darren Matthew Garcia
Ms. Carmen Castillo Mitchell
Mr. Nathan Ochsner