

No. 25-3923

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Feb 27, 2026

KELLY L. STEPHENS, Clerk

ADAM CARSON,

Petitioner-Appellant,

v.

UNITED STATES OF AMERICA,

Respondent-Appellee.

ORDER

Before: MOORE, Circuit Judge.

Adam Carson, a pro se federal prisoner, appeals the district court's denial of his 28 U.S.C. § 2255 motion. He moves for a certificate of appealability (COA), *see* Fed. R. App. P. 22(b), and for leave to proceed in forma pauperis on appeal, *see* Fed. R. App. P. 24(a)(5). For the following reasons, Carson is not entitled to a COA.

In 2018, Carson was convicted of bank robbery and witness tampering. The district court sentenced him as a career offender to 240 months in prison and ordered him to pay \$5,590 in restitution to the bank that he robbed. This court affirmed Carson's convictions and sentence on direct appeal. *United States v. Carson*, 796 F. App'x 238, 251 (6th Cir. 2019).

Carson then filed a § 2255 motion, which the district court denied. This court granted Carson a COA on several claims and appointed counsel Jeffrey Lazarus to represent him on appeal but ultimately affirmed. *Carson v. United States*, 88 F.4th 633, 648 (6th Cir. 2023).

Meanwhile, in May 2021, the district court granted the government's motion to garnish funds from Carson's prison trust account and apply them to his restitution obligation, but this court vacated that garnishment order and remanded for further proceedings. *United States v. Carson*, 55 F.4th 1053, 1059 (6th Cir. 2022). On remand, the district court appointed Lazarus to represent Carson in the garnishment proceedings. In April 2023, the district court issued an amended

Appendix A

judgment on the government's unopposed motion, clarifying that Carson's restitution obligation was joint and several with his co-defendant. The parties ultimately settled, and Carson's restitution obligation was deemed satisfied.

Carson filed a pro se appeal of the amended judgment, but he later voluntarily dismissed that appeal because Lazarus believed that it presented no meritorious issues. *United States v. Carson*, No. 23-3412 (6th Cir. July 24, 2023). Carson later moved to reinstate his appeal, arguing that the voluntary dismissal was the result of bad advice from Lazarus and that his appeal in fact presented meritorious issues. This court denied that motion. *United States v. Carson*, No. 23-3412 (6th Cir. Jan. 2, 2025).

Carson then filed another § 2255 motion, claiming that (1) Lazarus was ineffective for (a) abandoning issues in his § 2255 appeal on which he had been granted a COA, (b) failing to make certain arguments in his § 2255 appeal, (c) advising him to voluntarily dismiss his appeal from the amended judgment, and (d) failing to recoup \$1,915.89 that the government wrongly seized from his prison trust account after he had allegedly satisfied his restitution obligation, and (2) an intervening change in Sixth Circuit case law rendered his career-offender designation erroneous. The district court concluded that the motion was "second or successive" within the meaning of § 2255(h) and transferred it here for consideration. *See* 28 U.S.C. § 1631; *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997) (per curiam). This court agreed that Carson's claim challenging his career-offender designation was "second or successive" and required authorization, which it declined to grant, but determined that his remaining claims could proceed without authorization because they relied on facts that arose after his initial § 2255 motion was fully adjudicated. *In re Carson*, No. 25-3094, 2025 U.S. App. LEXIS 13648, at *6-7 (6th Cir. June 3, 2025). This court therefore remanded his ineffective-assistance claims to the district court for further proceedings. *Id.* at *7.

On remand, the district court denied Carson's ineffective-assistance claims without a hearing and declined to issue a COA, reasoning that Carson lacked a constitutional right to effective representation in collateral proceedings. This appeal followed.

Carson now seeks a COA from this court as to his ineffective-assistance claims and the denial of his requests to expand the record and for an evidentiary hearing. A COA may be issued “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). To satisfy this standard, the applicant must demonstrate that “jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El*, 537 U.S. at 327.

“The Sixth Amendment requires effective assistance of counsel at critical stages of a criminal proceeding,” including direct appeals. *Lafler v. Cooper*, 566 U.S. 156, 165 (2012); *Evitts v. Lucey*, 469 U.S. 387, 396 (1985). Carson claims that Lazarus was ineffective in connection with certain postconviction proceedings—namely, his § 2255 appeal and garnishment proceedings. But “prisoners have no constitutional right to counsel in collateral post-conviction proceedings.” *United States v. Manso-Zamora*, 991 F.3d 694, 696 (6th Cir. 2021) (per curiam); see *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987) (“[T]he [constitutional] right to appointed counsel extends to the first appeal of right, and no further.”). Although Carson also claims that Lazarus was ineffective for advising him to voluntarily dismiss his appeal from the district court’s amended judgment, that appeal was not a critical stage of Carson’s criminal proceedings to which the right to counsel attached. See *United States v. Augustin*, 16 F.4th 227, 233 (6th Cir. 2021) (holding that the imposition of a corrected sentence is not a critical stage of a defendant’s criminal proceedings). Because Carson did not have a constitutional right to counsel in his collateral proceedings or appeal from the amended judgment, Lazarus’s alleged shortcomings in those proceedings cannot be deemed constitutionally deficient. See *Wainwright v. Torna*, 455 U.S. 586, 587-88 (1982) (per curiam); *Abdus-Samad v. Bell*, 420 F.3d 614, 632 (6th Cir. 2005). Reasonable jurists therefore would not debate the district court’s resolution of Carson’s ineffective-assistance claims.

Carson’s counterarguments are unavailing. He first argues that this court would not have remanded his ineffective-assistance claims to the district court for consideration if he did not have a constitutional right to counsel in collateral proceedings. In making this argument, Carson misunderstands this court’s gatekeeping role when considering motions for authorization to file

second or successive § 2255 motions. At that stage, this court's consideration is limited to whether the movant requires authorization to proceed with his new claims and, if so, whether he has made a prima facie showing that those claims satisfy § 2255(h)'s requirements. *See In re Watkins*, 810 F.3d 375, 379 (6th Cir. 2015); 28 U.S.C. § 2244(b)(3)(C). Neither analysis involves a "full-throated review" of the movant's claims. *Vinson v. Jackson*, 711 F. App'x 329, 332 (6th Cir. 2018). Contrary to Carson's assertions, this court's determination that his ineffective-assistance claims were not "second or successive" did not obligate the district court to find those claims cognizable or meritorious.

Carson also argues that he had a due process right to effective assistance of counsel in his § 2255 appeal and garnishment proceedings because he was appointed counsel in both proceedings under the Criminal Justice Act (CJA), 18 U.S.C. § 3006A, et seq. Yet Carson couched his ineffective-assistance claims in Sixth Amendment terms. *See United States v. Ellison*, 462 F.3d 557, 560 (6th Cir. 2006) (noting that this court generally will not consider arguments raised for the first time on appeal). And even if Carson had properly preserved his due process argument, the Supreme Court has not held that a statutory right to counsel in itself establishes a *constitutional* right to counsel in collateral proceedings. *See Finley*, 481 U.S. at 556 ("But the fact that the defendant has been afforded assistance of counsel in some form does not end the inquiry for federal constitutional purposes. Rather, it is the source of that right to a lawyer's assistance combined with the nature of the proceedings, that controls the constitutional question.").

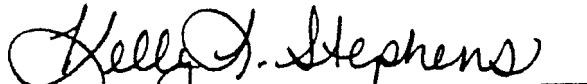
Lastly, Carson argues that the district court erred by denying his requests to expand the record with additional evidence and for an evidentiary hearing. However, because the record was sufficient to resolve Carson's claims, the district court was not required to expand the record or hold an evidentiary hearing. *See* 28 U.S.C. § 2255(b) (providing that a hearing is unnecessary if "the motion and the files and record of the case conclusively show that the prisoner is entitled to no relief"); Rule 7(a) of the Rules Governing § 2255 Proceedings ("If the motion is not dismissed, the judge may direct the parties to expand the record by submitting additional materials relating to the motion." (emphasis added)).

No. 25-3923

- 5 -

For these reasons, Carson's COA application is **DENIED**, and his motion to proceed in forma pauperis is **DENIED** as moot.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ADAM CARSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

) **Case No. 1:17-CR-00008**
)
)
)

) **JUDGE DONALD C. NUGENT**
)
)
)

) **MEMORANDUM OPINION AND**
) **ORDER**
)
)

This matter is before the Court upon Petitioner Adam Carson's *Motion to Vacate Under 28 U.S.C. § 2255* filed on April 19, 2025. (ECF #230). Respondent, United States of America, filed its opposition to the motion on July 23, 2025, (ECF #264). On August 19, 2025, Petitioner replied to the Government's opposition (ECF #267), filed a *Motion for Evidentiary Hearing* (ECF #265), and moved to expand the record, (ECF #266). The Government opposed the motion for an evidentiary hearing on August 22, 2025, (ECF #268), and Petitioner responded on September 9, 2025, (ECF #269). Petitioner's *Motion to Vacate Under 28 U.S.C. § 2255* is now ready for review.

Appendix B
-1-

Factual and Procedural History

In 2018, a jury found Adam Carson guilty of bank robbery, in violation of 18 U.S.C. § 2113(a), and witness tampering, in violation of 18 U.S.C. § 1512(b)(1). He was designated as a career offender under U.S.S.G. § 4B1.1 and sentenced to 240 months in prison, followed by three years of supervised release. His conviction and sentence were upheld on appeal. *United States v. Carson*, 796 F. App'x 238 (6th Cir. 2019).

Mr. Carson moved for relief under § 2255 for the first time in October 2021. (ECF #167).

The District Court denied his motion and declined to issue a certificate of appealability. (ECF #183). He then filed a *Motion to Alter or Amend Judgment* pursuant to Federal Rule of Civil Procedure 59(e), (ECF #185), which the District Court denied. (ECF #186). He appealed both decisions. In January 2023, the United States Court of Appeals for the Sixth Circuit consolidated both appeals, granted a broad certificate of appealability, and appointed him appellate counsel. (ECF #197).

In the meantime, the District Court amended its judgment, making his co-defendant jointly and severally liable for the restitution amount in April 2023. (ECF #214). He appealed that decision, and, at the advice of counsel, voluntarily dismissed that appeal in May 2023. (ECF #215), (ECF #217).

In December 2023, the Court of Appeals affirmed the District Court's decision denying his first § 2255 and his motion to amend the judgment under Rule 59(e). (ECF #218). In early January, Mr. Carson moved to reopen the appeal he previously dismissed. In April, he filed a second-in-time § 2255 (ECF #230), which was held in abeyance pending the decision of whether he could reopen the dismissed appeal, (ECF #233).

The Court of Appeals ultimately denied Mr. Carson's request to reopen the appeal, which lifted the abeyance and allowed the District Court to review his second-in-time § 2255. Ground One of his § 2255 motion alleges that Assistant Federal Public Defender Jeffrey Lazarus rendered ineffective assistance by improperly handling the appeal of his first § 2255 motion, advising him to withdraw his appeal of the amended judgment, and for failing to recover money he was allegedly owed. (ECF #230, p.5 [PageID #2237]). In Ground Two, Mr. Carson claims that he was incorrectly designated as a career offender at sentencing. (*Id.* at p.5 [PageID #2238]).

The District Court deemed his entire second-in-time § 2255 filing to be successive and transferred the matter to the Court of Appeals. The Court of Appeals determined that only Ground Two of his § 2255 motion pertaining to his career offender designation was successive and required authorization to file, which it declined to grant. (ECF #260, p.4 [PageID #2469]). His Ground One ineffective-assistance-of-counsel claim, on the other hand, relied on facts that arose *after* his initial § 2255 motion was fully adjudicated. Therefore, Ground One was not successive and could proceed without authorization. The Court will now consider the merits behind Ground One of his § 2255 motion.

Legal Analysis

A petitioner who moves to vacate, set aside, or correct a sentence pursuant to 28 U.S.C. § 2255 must demonstrate that: (1) the sentence was imposed in violation of the Constitution or laws of the United States; (2) the court was without jurisdiction to impose the sentence; (3) the sentence was in excess of the maximum authorized by law; or, (4) it is otherwise subject to collateral attack. *See* 28 U.S.C. § 2255.

In order to obtain relief under § 2255, petitioners must prove by a preponderance of the evidence that their constitutional rights were denied or infringed. *United States v. Brown*, 957 F.2d 679, 690 (6th Cir. 2020). A court may grant relief under § 2255 only if a petitioner has demonstrated “a fundamental defect which inherently results in a complete miscarriage of justice.” *Id.* (internal quotation and citation omitted). If a § 2255 motion, as well as the files and records of the case, conclusively show that the petitioner is entitled to no relief, then the court need not grant a hearing on the motion. *See* 28 U.S.C. § 2255.

Mr. Carson’s claims regarding the ineffectiveness of Attorney Lazarus fall into three groups: (1) the appeal of his § 2255, (2) the failure to appeal subsequent changes to his sentence, and, (3) the failure to address the restitution amount. In all cases, he lacks a right to counsel, but for different reasons.

I. Appeal of § 2255.

Regarding how Attorney Lazarus handled the appeal of his § 2255, Mr. Carson argues he should have included every argument for which he was granted a certificate of appealability, such as the denial of his Rule 59(e) motion. (ECF #230-1, p.14 [PageID #2259]). Further, he claims that although Attorney Lazarus raised a particular issue, he used incorrect language in doing so. Specifically, he requested Mr. Lazarus to change the title of an argument from “Defense counsel provided ineffective assistance by failing to seek a plea offer” to “Defense Counsel provided ineffective assistance by failing to arrange for [Mr.] Carson to plead guilty.” (ECF #267, p.7 [PageID #2507]). Attorney Lazarus did not comply with his request and, if he had, according to Mr. Carson, he allegedly “would have been granted relief.” (*Id.*).

Petitioner cannot bring a claim of ineffective assistance of counsel based on how Attorney Lazarus handled his § 2255 appeal because he lacks a constitutional basis to do so.

“There can be a constitutional claim of ineffective assistance of counsel *only* at a stage of the proceedings where there is a right to counsel under the Sixth Amendment.” *Smith v. State of Ohio Dept. of Rehabilitation and Corrections*, 463 F.3d 426, 433 (6th Cir. 2006) (emphasis added); *see also Ray v. United States*, 721 F.3d 758, 761 (6th Cir. 2013) (“It is well-established that a § 2255 motion is not a substitute for a direct appeal.”). The Supreme Court has made clear that a prisoner’s post-conviction “right to appointed counsel extends to the first appeal of right, and no further.” *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987). Without a “constitutional right to counsel, there can be no deprivation of effective assistance[.]” *Nichols v. United States*, 563 F.3d 240, 248 (6th Cir. 2009) (citations omitted).

II. Withdrawal of Direct Appeal

Mr. Carson also lacked a right to counsel when Attorney Lazarus advised him to withdraw his direct appeal of the amended judgment. (ECF #230, p.5 [PageID #2237]). “[T]he right to counsel only attaches at ‘critical stages’ of criminal proceedings . . . [a]nd the imposition of a corrected sentence is not one.” *United States v. Augustin*, 16 F.4th 227, 233 (6th Cir. 2021). Rather, it is a “mechanical act that does not ‘present a reasonable probability that [the defendant’s] case could suffer significant consequences from his total denial of counsel at the stage.’” *Id.* (quoting *Van v. Jones*, 475 F.3d 292, 313 (6th Cir. 2007) (alterations retained)). Here, the District Court issued an amended judgment because the original judgment inadvertently failed to specify that his restitution obligation was joint and several with his co-defendant. By amending the judgment, the District Court did “not disturb the underlying initial judgment,” nor did it amount to a “new, worse-than-before sentence.” *Crangle v. Kelly*, 838 F.3d 673, 678 (6th Cir. 2016). In fact, the amended judgment benefited Mr. Carson by making his co-defendant jointly and severally liable for the restitution amount.

III. Restitution

Mr. Carson also argues that his attorney abandoned him during his restitution proceedings in violation of his Sixth Amendment right to counsel. (ECF #267, p.10 [PageID #2510]). Here, his claims of ineffective assistance of counsel fail because he lacked a right to counsel at this stage and, therefore, cannot establish the threshold requirement for § 2255 relief by proving that his constitutional rights were denied or infringed.

With respect to the funds he was allegedly owed, Mr. Carson's final restitution amount was calculated as part of an agreed settlement following a dispute over the amount of money that had been seized from his prison account to satisfy the outstanding debt. Throughout the resolution of the dispute, he was represented by the Federal Public Defender's Office. Both parties agreed on an Amended Judgment allowing his restitution to be offset by payments made by his co-defendant, and the parties agreed that the restitution amount had been paid in full. (ECF #216). Mr. Carson's payment of restitution has been fully adjudicated, and his belief that he is owed funds is mistaken. (ECF #250).

IV. Evidentiary Hearing and Record Expansion

Because his § 2255 claim fails, it is not necessary to hold an evidentiary hearing or expand the record. *See* 28 U.S.C. § 2255; *see also* *Blanton v. United States*, 94 F.3d 227, 235 (6th Cir. 1996) (recognizing that evidentiary hearing is not required when the record conclusively shows that petitioner is not entitled to relief.); *and* Rule 7 Governing § 2255 (providing that "[i]f the petition is not dismissed, the judge may direct the parties to expand the record[.]" (emphasis added)). Because Mr. Carson does not raise a cognizable constitutional violation, there is no basis upon which the Court could expand the record.

Certificate of Appealability

Pursuant to 28 U.S.C. § 2253, the Court must determine whether to grant a certificate of appealability as to any of the claims presented in the Petition. 28 U.S.C. § 2253 provides, in part, as follows:

(c)(1) Unless a circuit justice of judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from –

(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

(B) the final order in a proceeding under section 2255.

(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

In order to make a “substantial showing” of the denial of a constitutional right, as required under 28 U.S.C. § 2255(c)(2), a habeas prisoner must demonstrate “that reasonable jurists could debate whether . . . the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473, 475 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)).

Where a district court has rejected the constitutional claims on the merits, the petitioner must demonstrate only that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong. *Slack*, 529 U.S. at 484.

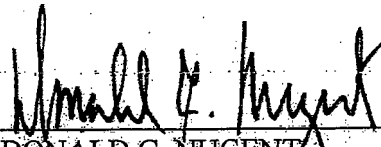
For the reasons stated above, the Court concludes that Petitioner has failed to make a substantial showing of the denial of a constitutional right. Accordingly, the Court declines to issue a certificate of appealability. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that

an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

Conclusion

For the reasons set forth above, Petitioner's *Motion to Vacate Under 28 U.S.C. § 2255* (ECF #230), *Motion for Evidentiary Hearing* (ECF #265), and *Motion to Expand the Record* (ECF #266) are DENIED.

IT IS SO ORDERED.


DONALD C. NUGENT
United States District Judge

DATED: October 23, 2025

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

May 26, 2026

Mr. Adam Carson
Prisoner ID 64595-060
USP Lewisburg
PO BOX 1000
Lewisburg, PA 17837

Re: Adam Carson
v. United States
Application No. 25A1308

Dear Mr. Carson:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Kavanaugh, who on May 26, 2026, extended the time to and including July 27, 2026.

This letter has been sent to those designated on the attached notification list.

Enclosed is a guide for prospective indigent petitioners for writs of certiorari, as well as a copy of the Rules of the Supreme Court.

Sincerely,

Scott S. Harris, Clerk

by



Sara Simmons
Case Analyst

Appendix C

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

August 5, 2026

Adam Carson
#64595-060
FCI Williamsburg
P.O. Box 340
Salters, SC 29590

RE: Carson v. United States
USAP6 25-3923
No: 25A1308

Dear Mr. Carson:

The above-entitled petition for writ of certiorari was postmarked July 21, 2026 and received August 5, 2026. The papers are returned for the following reason(s):

The petition fails to comply with the content requirements of Rule 14, in that the petition does not contain:

A list of all parties to the proceeding in the court whose judgment is sought to be reviewed, along with their stock ticker symbols, if any. Rule 14.1(b).

Effective March 16, 2026, it no longer suffices to refer to the caption to cite the parties to the proceeding.

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 60 days of the date of this letter, the petition will not be filed. Rule 14.5.

A copy of the corrected petition must be served on opposing counsel.

Appendix C

When making the required corrections to a petition, no change to the substance of the petition may be made.

Sincerely,
Scott S. Harris, Clerk

By: 

Sara Simmons
(202) 479-3023

Enclosures

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

September 2, 2026

Adam Carson
#64595-060
FCI Williamsburg
P.O. Box 340
Salters, SC 29590

RE: Carson v. United States
USAP6 25-3923
No: 25A1308

Dear Mr. Carson:

The above-entitled petition for writ of certiorari was originally postmarked July 21, 2026 and received again on September 1, 2026. The papers are returned for the following reason(s):

Only the parties to the proceeding in the court whose judgment is sought to be reviewed may be cited. Rule 14.1(b). To the extent that Adam Carson and the United States of America were the parties in the court below, these are the only parties to be listed in the list of parties.

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 60 days of the date of this letter, the petition will not be filed. Rule 14.5.

A copy of the corrected petition must be served on opposing counsel.

When making the required corrections to a petition, no change to the substance of the petition may be made.

Sincerely,
Scott S. Harris, Clerk

By: 

Sara Simmons
(202) 479-3023

Enclosures

Appendix C