

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 19-30098

United States Court of Appeals
Fifth Circuit

FILED

April 14, 2020

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

KEVIN HONEYCUTT,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 3:18-CV-1346
USDC No. 3:15-CR-58-2

Before DENNIS, ELROD, and DUNCAN, Circuit Judges.

PER CURIAM:*

Kevin Honeycutt, federal prisoner # 17578-035, moves for a certificate of appealability (COA) to appeal the denial of his 28 U.S.C. § 2255 motion challenging his sentences for conspiring to distribute and to possess with intent to distribute a controlled substance, possessing with intent to distribute a controlled substance, and being a convicted felon in possession of firearms. In his § 2255 motion, Honeycutt claimed that his trial counsel rendered

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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ineffective assistance during the plea negotiation stage and relative to his decision to plead guilty or proceed to trial. He also requested an evidentiary hearing.

To obtain a COA, a movant must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Where a district court has denied claims on the merits, a movant must show “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 v. Cockrell*, 537 U.S. 322, 327 (2003). Honeycutt has not met this standard with respect to his ineffective assistance claim and has therefore not shown an entitlement to a COA.

We construe his motion for a COA with respect to the district court’s denial of an evidentiary hearing as a direct appeal of that issue, *see Norman v. Stephens*, 817 F.3d 226, 234 (5th Cir. 2016), and affirm. Honeycutt’s motion for leave to proceed in forma pauperis (IFP) on appeal is denied.

COA DENIED; AFFIRMED; IFP DENIED.