

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

No. 19-30317

United States Court of Appeals
Fifth Circuit

FILED

May 19, 2020

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MAURICE ANTUAN SPEIGHTS,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:18-CV-1072
USDC No. 2:15-CR-46-1

Before HAYNES, GRAVES, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Maurice Antuan Speights, federal prisoner # 23322-017, was convicted by jury verdict of sexual abuse of a person who was mentally or physically unable to decline and was sentenced to 121 months of imprisonment, five years of supervised release, and \$3,570 restitution. He moves for a certificate of appealability (COA) to appeal the denial of his motion to alter or amend judgment, pursuant to Federal Rule of Civil Procedure 59(e), in which he

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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argued that the district court erred by denying his 28 U.S.C. § 2255 motion without conducting an evidentiary hearing. He repeats those arguments from his Rule 59(e) motion before us and does not challenge his underlying claims directly. His motion for appointment of counsel is denied.

A COA is not required to appeal the denial of an evidentiary hearing in a § 2255 proceeding. *See Norman v. Stephens*, 817 F.3d 226, 234 (5th Cir. 2016). We therefore construe Speights's motion for a COA as a direct appeal of that issue. Because the record established that Speights could not prove a necessary element to establish ineffective assistance of counsel, the district court did not abuse its discretion by denying his § 2255 motion without conducting an evidentiary hearing. *See United States v. Walker*, 68 F.3d 931, 934 (5th Cir. 1995).

AFFIRMED; MOTIONS FOR A COA AND APPOINTMENT OF COUNSEL DENIED.