

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

United States Court of Appeals
Fifth Circuit

FILED

May 13, 2020

Lyle W. Cayce
Clerk

No. 19-20522

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EDWIN JASSIEL PERALTA-CASTRO,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:18-CV-2581
USDC No. 4:14-CR-356-7

Before DENNIS, ELROD, and DUNCAN, Circuit Judges.

PER CURIAM:*

Edwin Jassiel Peralta-Castro, federal prisoner # 97057-379, pleaded guilty to engaging in a monetary transaction in property derived from specified unlawful activity and was sentenced to 120 months of imprisonment. The district court denied Peralta-Castro's 28 U.S.C. § 2255 motion on the merits without holding an evidentiary hearing. Peralta-Castro now seeks a certificate of appealability (COA). He contends that his attorney rendered ineffective

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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assistance by failing to correctly explain his potential sentencing exposure before advising him to plead guilty and advising Peralta-Castro that he would be facing a guidelines range of 15-21 months at most, and by making legally baseless arguments based on his misunderstanding of the Sentencing Guidelines in the district court and on appeal. He also argues that the district court erred by not holding an evidentiary hearing on his claims.

We will grant a COA only when the movant “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, 336 (2003). Where the district court has denied relief on the merits, the movant “must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong” or that “the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (internal quotation marks and citation omitted). Peralta-Castro has not made the requisite showing. *See id.*

We construe the motion for a COA with respect to the district court’s failure to hold an evidentiary hearing as a direct appeal of that issue, *see Norman v. Stephens*, 817 F.3d 226, 234 (5th Cir. 2016), and affirm.

COA DENIED; AFFIRMED.