

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

No. 15-40529
USDC No. 4:12-CV-31
USDC No. 4:08-CR-123-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LOUIS SIMPSON,

Defendant-Appellant

Appeals from the United States District Court for the
Eastern District of Texas, Sherman

O R D E R:

Louis Simpson, federal prisoner # 02297-028, moves for a certificate of appealability (COA) to challenge the denial of his 28 U.S.C. § 2255 motion. He was convicted of seven counts of wire fraud and two counts of aggravated identity theft and sentenced to a total term of imprisonment of 183 months and three years of supervised release and ordered to pay \$1,005,136.18 in restitution. He raised the following claims in his § 2255 motion: (1) the Government relied on false testimony; (2) the district court admitted inadmissible evidence and imposed an unreasonable sentence; (3) the Government failed to allege and prove essential elements of aggravated identity theft in counts eight and nine; (4) there was a variance between the

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wire fraud counts in the superseding indictment and the evidence presented at trial; (5) there was insufficient evidence to support his convictions for wire fraud; (6) the Government engaged in prosecutorial misconduct; (7) his counsel was ineffective at trial, sentencing, and on direct appeal; (8) the Government obtained an indictment without probable cause, based on false testimony, and without giving proper notice; and (9) he is actually innocent. The district court denied his ineffective assistance of counsel claims on the merits and his remaining claims on a procedural ground.

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). When a district court has rejected a constitutional claim on procedural grounds, a COA will be granted only if the applicant demonstrates “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). When a district court has rejected a constitutional claim on the merits, a COA will be granted only if the applicant “demonstrate[s] that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Id.* Simpson fails to make these showings.

Simpson’s motion for a COA is DENIED.



_____/s/ Edith Brown Clement_____
EDITH BROWN CLEMENT
UNITED STATES CIRCUIT JUDGE

A True Copy
Certified order issued Jan 18, 2016

John W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

January 18, 2016

Mr. David O'Toole
Eastern District of Texas, Sherman
101 E. Pecan Street
Federal Building
Room 216
Sherman, TX 75090-0000

No. 15-40529 USA v. Louis Simpson
USDC No. 4:12-CV-31

Dear Mr. O'Toole,

Enclosed is a copy of the judgment issued as the mandate.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
James deMontluzin, Deputy Clerk

cc w/encl:
Mr. Grover Glenn Roque-Jackson
Mr. Louis Simpson