

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No: 05-20122-JWL

KANSAS A. ELLIS,

Defendant.

ORDER

On July 22, 2008, the court entered an order denying Mr. Ellis's motion to vacate his sentence pursuant to 28 U.S.C. § 2255. Mr. Ellis has now filed a motion for a certificate of appealability (doc. 41). As explained below, the court declines to grant a certificate of appealability (COA).

A COA should issue if the applicant has "made a substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), which the Tenth Circuit has interpreted to require that the "petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *See Saiz v. Ortiz*, 392 F.3d 1166, 1171 (10th Cir. 2004) (quoting *Tennard v. Dretke*, 124 S. Ct. 2562, 2569 (2004)(quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000))). The court has carefully considered Mr. Ellis's submissions and it does not believe that reasonable jurists would disagree that his § 2255 motion was without merit. Thus the court denies his motion and declines to issue a certificate of appealability.

IT IS SO ORDERED.

Dated this 15th day of August, 2008, at Kansas City, Kansas.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge