

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

No. 16-10082-01-JTM

RAISHAT MCGILL,  
Defendants.

MEMORANDUM AND ORDER

The court has previously denied Defendant Raishat McGill's 28 U.S.C. § 2255 motion attacking his conviction for using, carrying or brandishing a firearm during the robbery in violation of 18 U.S.C. § 924(c)(1)(A) (Dkt. 107), and subsequently denied his motion for reconsideration (Dkt. 111), which the court found either reiterated previously-made arguments or presented new and untimely collateral attacks on his conviction. (Dkt. 112). The matter is now before the court on McGill's motion for a certificate of appealability.

The court declines to issue a certificate of appealability under Rule 11 of the Rules Governing Section 2255 Proceedings. A certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Such a certificate may issue where "reasonable jurists would find the district

court's assessment of the constitutional claims debatable or wrong." *Saiz v. Ortiz*, 392 F.3d 1166, 1171 n.3 (10th Cir. 2004) (quoting *Tennard v. Dretke*, 542 U.S. 274, 282 (2004)). When a court's ruling is based on procedural grounds, a movant must demonstrate 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).

Because it is clear that the arguments rejected by the court are untimely or are precluded by law, the court finds that defendant has not satisfied these standards. The Court therefore denies a certificate of appealability as to its ruling on defendant's Section 2255 motion.

IT IS ACCORDINGLY ORDERED this day of November, 2019, that the defendant's Motion for Certificate (Dkt. 113) is hereby denied.

s/ J. Thomas Marten  
J. Thomas Marten, Judge