

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 20-11093-A

JOSEPH FENELON COOPER,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Florida

ORDER:

Joseph Cooper moves for a certificate of appealability (“COA”) in order to appeal the district court’s determination that his 28 U.S.C. § 2255 motion failed to satisfy § 2255(h)(2). To merit a COA, he must show that reasonable jurists would find debatable both (1) the merits of an underlying claim, and (2) the procedural issues that he seeks to raise. *See* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 478 (2000). Here, Cooper has satisfied the *Slack* test, and as such, his motion for a COA is GRANTED, on the following issue:

Whether the district court erred in finding that Cooper failed to satisfy his burden under *Beeman v. United States*, 871 F.3d 1215 (11th Cir. 2017), to show that he was unconstitutionally sentenced under the residual clause of 18 U.S.C. § 924(c), when he was convicted of attempted armed bank robbery

/s/ Charles R. Wilson
UNITED STATES CIRCUIT JUDGE

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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June 08, 2020

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Appeal Number: 20-11093-A
Case Style: Joseph Cooper v. USA
District Court Docket No: 3:17-cv-00178-RV-EMT
Secondary Case Number: 3:97-cr-00068-RV-EMT-1

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The enclosed order has been ENTERED.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Denise E. O'Guin, A
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MOT-2 Notice of Court Action