

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 25-3090

September Term, 2025

1:19-cr-00324-BAH-1

Filed On: January 29, 2026

United States of America,

Appellee

v.

Joseph Smith,

Appellant

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BEFORE: Millett, Pan, and Garcia, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing and the motion for other relief, styled as a request not to be time-barred, it is

ORDERED that the motion for other relief be referred to the district court for resolution in the first instance. It is

FURTHER ORDERED AND ADJUDGED that the district court’s minute order entered August 6, 2025, be affirmed. Although appellant now argues that he is indigent and requires a copy of his case files in order to file a motion pursuant to 28 U.S.C. § 2255, he did not raise these arguments before the district court, and he has not shown that the district court erred in denying his motion for a copy of his case files. See Keepseagle v. Perdue, 856 F.3d 1039, 1053 (D.C. Cir. 2017) (“It is well settled that issues and legal theories not asserted at the District Court level ordinarily will not be heard on appeal.” (citation omitted)); cf. United States v. MacCollom, 426 U.S. 317, 322-28 (1976) (holding that litigants do not have a constitutional right to free copies of transcripts for purposes of preparing § 2255 motions). This determination does not prevent appellant from filing a motion seeking relief under 28 U.S.C. § 2255 within the one-year deadline. Nor does it preclude him from, for example, filing in the district court a motion under 28 U.S.C. § 753(f), which provides for free transcripts for a prisoner

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proceeding in forma pauperis and asserting a claim under § 2255 if a judge certifies that the claim is “not frivolous” and that the transcripts are “needed to decide the issue[s]” presented, 28 U.S.C. § 753(f); see MacCollom, 426 U.S. at 320-21, or a motion under 28 U.S.C. § 2250, which provides for free copies of court records for a prisoner proceeding in forma pauperis on a habeas petition, see 28 U.S.C. § 2250. If appellant successfully obtains the records he desires, he could then seek to amend or supplement his timely § 2255 motion. See United States v. Hicks, 283 F.3d 380, 385-89 (D.C. Cir. 2002).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam