

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7156

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEMUEL CORNELIUS MINGO,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Richard L. Voorhees, Senior District Judge. (3:03-cr-00014-RLV-CH-1; 3:12-cv-00235-RLV; 3:09-cv-00056-RLV)

Submitted: June 23, 2017

Decided: January 11, 2018

Before GREGORY, Chief Judge, and WILKINSON and KING, Circuit Judges.

Affirmed in part, dismissed in part by unpublished per curiam opinion.

Kemuel Cornelius Mingo, Appellant Pro Se. Robert John Gleason, OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North Carolina; Amy Elizabeth Ray, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kemuel Cornelius Mingo sought relief from his sentence pursuant to 28 U.S.C. §§ 2241, 2255 (2012), and through petitions for writ of error coram nobis and audita querela. The district court denied relief, and Mingo appeals.

To the extent that Mingo seeks to appeal that portion of the district court's order denying relief under § 2255, the order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (2012). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2012). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); see *Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the motion states a debatable claim of the denial of a constitutional right. *Slack*, 529 U.S. at 484-85. We have independently reviewed the record and conclude that Mingo has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss this portion of the appeal.

With respect to the remaining grounds for relief, we have reviewed the record and found no reversible error. Accordingly, we affirm on the reasoning of the district court. *United States v. Mingo*, Nos. 3:03-cr-00014-RLV-CH-1; 3:12-cv-00235-RLV; 3:09-cv-00056-RLV (W.D.N.C. May 30, 2013).

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED IN PART;
DISMISSED IN PART*