

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7848

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TIMOTHY LAFON MURPHY, a/k/a TJ,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Louise W. Flanagan, District Judge. (5:04-cr-00241-FL-1; 5:12-cv-00287-FL)

Submitted: January 23, 2014

Decided: January 28, 2014

Before WILKINSON and DIAZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Timothy Lafon Murphy, Appellant Pro Se. Jason Harris Cowley, Edward D. Gray, Jennifer P. May-Parker, Rudolf A. Renfer, Jr., Assistant United States Attorneys, Seth Morgan Wood, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Timothy Lafon Murphy seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing as successive his 28 U.S.C. § 2255 (2012) motion, and denying his motion to reopen final judgment filed pursuant to Federal Rule of Civil Procedure 60(b)(6). 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 Murphy has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. 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.

DISMISSED