

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6393

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARYL BERNARD CARTER,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrance W. Boyle, District Judge. (5:09-cr-00130-BO-1; 5:12-cv-00718-BO)

Submitted: July 24, 2014

Decided: July 28, 2014

Before FLOYD and THACKER, Circuit Judges, and DAVIS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Daryl Bernard Carter, Appellant Pro Se. Rudy E. Renfer, Assistant United States Attorney, Shailika K. Shah, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daryl Bernard Carter seeks to appeal the district court's orders denying as untimely his 28 U.S.C. § 2255 (2012) motion, and denying his subsequent motion to alter or amend judgment. The orders are 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 Carter has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We further deny Carter's motion for appointment of counsel and 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