

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7641

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RODERICK ALLEN COTTON, JR.,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (2:08-cr-00087-RAJ-TEM-1; 2:16-cv-00323-RAJ)

Submitted: December 19, 2019

Decided: December 23, 2019

Before NIEMEYER, AGEE, and QUATTLEBAUM, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Roderick Allen Cotton, Jr., Appellant Pro Se. Aidan Taft Grano, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Roderick Allen Cotton, Jr., seeks to appeal the district court’s order dismissing as untimely his 28 U.S.C. § 2255 (2012) motion. 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, as here, 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 Cotton has not made the requisite showing. Specifically, our recent decision in *United States v. Mathis*, 932 F.3d 242, 266 (4th Cir. 2019) (holding, in relevant part, “that Hobbs Act robbery constitutes a crime of violence” under the force provision in 18 U.S.C. § 924(c)(3)(A) (2018)), *petitions for cert. filed*, Nos. 19-6423, 19-6424 (U.S. Oct. 29, 2019), squarely forecloses the substantive issue advanced in Cotton’s § 2255 motion. Therefore, the motion does not state a debatable claim of the denial of a constitutional right. Accordingly, we deny a certificate of appealability and dismiss this 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