

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 16-7666**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALBERT CHARLES BURGESS,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of North Carolina,  
at Asheville. Graham C. Mullen, Senior District Judge. (1:09-cr-00017-GCM-DLH-1)

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Submitted: April 11, 2017

Decided: April 27, 2017

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Before GREGORY, Chief Judge, and KEENAN and WYNN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Albert Charles Burgess, Appellant Pro Se. Kimlani M. Ford, Cortney Randall, Edward  
R. Ryan, Assistant United States Attorneys, Charlotte, North Carolina, Amy Elizabeth  
Ray, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Albert Charles Burgess, Jr., seeks to appeal the district court's order denying relief on his motion to amend the district court's amended criminal judgment.\* We conclude that Burgess' motion was in substance a 28 U.S.C. § 2255 (2012) motion challenging the amended criminal judgment.

The district court's 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 Burgess has not made the requisite showing. Accordingly, we deny a certificate of appealability and

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\* Burgess noted an appeal from the district court's November 16, 2016 orders denying his motion to amend, his motion to reconsider, and his request for a subpoena duces tecum but confines his appeal to the denial of his motion to amend the amended criminal judgment.

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*