

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7741

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CURTIS BURSTON, JR., a/k/a Black, a/k/a David Smith, a/k/a Melvin Roberts,
a/k/a David Brown,

Defendant – Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Raleigh. James C. Fox, Senior District Judge. (5:04-cr-00371-F-2; 5:16-cv-00742-F)

Submitted: April 20, 2017

Decided: April 25, 2017

Before WILKINSON, NIEMEYER, and KEENAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Curtis Burston, Jr., Appellant Pro Se. Seth Morgan Wood, Assistant United States
Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Curtis Burston, Jr., seeks to appeal the district court's order denying relief on his motion filed pursuant to 28 U.S.C. § 2255 (2012). 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 Burston has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, 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