

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6120

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARTIN TERAN, a/k/a El Chapin, a/k/a Daniel R. Rodriguez, a/k/a David L.
Morales Garcia, a/k/a Hugo Roland Gomez,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at
Columbia. Joseph F. Anderson, Jr., Senior District Judge. (3:10-cr-00468-JFA-1; 3:14-
cv-01579-JFA)

Submitted: June 27, 2017

Decided: July 6, 2017

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

Dismissed by unpublished per curiam opinion.

Martin Teran, Appellant Pro Se. Julius Ness Richardson, Assistant United States Attorney,
Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Martin Teran seeks to appeal the district court's order denying relief in his 28 U.S.C. § 2255 (2012) proceeding.* 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); *Reid v. Angelone*, 369 F.3d 363, 369-70 (4th Cir. 2004). 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 Teran 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

* The district court entered judgment denying Teran's § 2255 motion on June 15, 2015. By motion deposited in the prison's mail system on May 6, 2016, at the earliest, Teran sought relief from that judgment under Fed. R. Civ. P. 60(b). The court denied the Rule 60(b) motion on December 27, 2016. Teran noted his appeal on January 30, 2017. Because Teran did not file the Rule 60(b) motion within 28 days of the court's final order, the motion did not toll the time for filing a notice of appeal from a final judgment. Fed. R. App. P. 4(a)(4)(A). Thus, Teran's notice of appeal applies only to the December 27, 2016, order denying his Rule 60(b) motion and related Fed. R. Civ. P. 59(e) motion, and his challenges to the June 15, 2015, order are not subject to review.

adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED