UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6219

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MALCOLM ROBERT LEE MELVIN,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. R. Bryan Harwell, Chief District Judge. (4:11-cr-00079-RBH-1; 4:16-cv-01273-RBH)

Submitted: December 19, 2019 Decided: January 17, 2020

Before NIEMEYER and FLOYD, Circuit Judges, and SHEDD, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Malcolm Robert Lee Melvin, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Malcolm Robert Lee Melvin seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2018) 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) (2018). 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) (2018). 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 Melvin has not made the requisite showing.[*] Accordingly, we deny Melvin's motion for appointment of counsel, deny a certificate of appealability, and dismiss the appeal. We dispense with oral argument

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[*] Although we previously held this appeal in abeyance pending our decision in *United States v. Ali*, No. 15-4433, we conclude that continued abeyance is now unnecessary in light of our decision in *United States v. Mathis*, 932 F.3d 242, 266 (4th Cir. 2019), *cert. denied*, __ U.S.L.W. __, 2019 WL 6689801 (U.S. Dec. 9, 2019) (No. 19-6423), *and cert. denied*, __ U.S.L.W. __, 2019 WL 6609802 (U.S. Dec. 9, 2019) (No. 19-6424).

because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED