

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 18-6490**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENNETH ONEAL TIMMONS, a/k/a Keno, a/k/a Kino,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Columbia. Joseph F. Anderson, Senior District Judge. (3:12-cr-00513-JFA-39; 3:16-cv-02684-JFA)

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Submitted: September 9, 2019

Decided: October 18, 2019

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

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Dismissed by unpublished per curiam opinion.

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Kenneth ONeal Timmons, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenneth ONeal Timmons seeks to appeal the district court's order dismissing his 28 U.S.C. § 2255 (2012) motion without prejudice as time-barred and premature. 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 Timmons 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 adequately presented in the materials before this court and argument would not aid the decisional process.

*DISMISSED*