

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-6698

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

IRBY GENE DEWITT,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence.
Terry L. Wooten, Senior District Judge. (4:04-cr-00795-TLW-4; 4:16-cv-02067-TLW)

Submitted: October 31, 2019

Decided: December 16, 2019

Before WILKINSON and HARRIS, Circuit Judges, and HAMILTON, Senior Circuit
Judge.

Dismissed by unpublished per curiam opinion.

Irby Gene Dewitt, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Irby Gene Dewitt seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 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). 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). 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. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (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. *See Slack*, 529 U.S. at 484–85.

We have independently reviewed the record and conclude that Dewitt has not made the requisite showing. Accordingly, we deny Dewitt's motion for appointment of counsel, deny a certificate of appealability, and dismiss this 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