

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 19-6826**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THOMAS MONTRIL BROWN, a/k/a Sparks,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Florence.  
Terry L. Wooten, Senior District Judge. (4:05-cr-00770-TLW-1; 4:16-cv-02254-TLW)

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Submitted: November 8, 2019

Decided: November 13, 2019

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Before MOTZ, WYNN, and DIAZ, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Thomas Montril Brown, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas Montril Brown seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2012) 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) (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 Brown 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

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\* After the district court entered its judgment, the Supreme Court decided *United States v. Davis*, 139 S. Ct. 2319 (2019). In *Davis*, the Supreme Court held that the residual clause of the definition of crime of violence in 18 U.S.C. § 924(c)(3)(B) (2012) is unconstitutionally vague. *Davis*, 139 S. Ct. at 2336; *accord United States v. Simms*, 914 F.3d 229, 232-33, 252 (4th Cir.) (en banc), *cert. denied*, No. 18-1338, 2019 WL 4923463 (U.S. Oct. 7, 2019). However, we recently held that Hobbs Act robbery qualifies as a crime of violence under the force clause in 18 U.S.C. § 924(c)(3)(A) (2012), which remains intact after *Davis*. *See United States v. Mathis*, 932 F.3d 242, 266 (4th Cir.) *petition for cert. docketed*, \_\_\_ U.S.L.W. \_\_\_ (U.S. Oct. 28, 2019) (Nos. 19-6423/6424).

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

*DISMISSED*