

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-7256

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BOBBIE RAY EDWARDS, a/k/a Tank,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Newport News. Arenda L. Wright Allen, District Judge. (4:11-cr-00055-AWA-DEM-10; 4:22-cv-00057-AWA)

Submitted: February 22, 2024

Decided: February 27, 2024

Before NIEMEYER and HEYTENS, Circuit Judges, and KEENAN, Senior Circuit Judge.

Dismissed in part and affirmed in part by unpublished per curiam opinion.

Bobbie Ray Edwards, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bobbie Ray Edwards seeks to appeal the district court’s order dismissing his 28 U.S.C. § 2255 motion as successive and unauthorized and denying his motion for an audio recording. The denial of a § 2255 motion is not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 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, as here, 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. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Edwards has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss this part of the appeal.

Turning to the rest of the appeal, for which Edwards does not need a certificate of appealability, *see Harbison v. Bell*, 556 U.S. 180, 183 (2009), we discern no reversible error in the district court’s decision to deny Edwards’ motion for an audio recording. We therefore affirm this part of the court’s order. *United States v. Edwards*, No. 4:11-cr-00055-AWA-DEM (E.D. Va. Nov. 8, 2023).

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 IN PART,
AFFIRMED IN PART*