

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-7158

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

COREY LEVON JOYNER,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Elizabeth City. James C. Fox, Senior District Judge. (2:07-cr-00016-F-1; 2:08-cv-00034-F)

Submitted: November 30, 2010

Decided: December 7, 2010

Before WILKINSON, KEENAN, and WYNN, Circuit Judges.

Affirmed in part; dismissed in part by unpublished per curiam opinion.

Corey Levon Joyner, Appellant Pro Se. Jennifer P. May-Parker, Rudolf A. Renfer, Jr., Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Corey Levon Joyner seeks to appeal the district court's order denying relief on his motions filed pursuant to 28 U.S.C.A. § 2255 (West Supp. 2010), and 18 U.S.C. § 3582(c) (2006). The district court's denial of Joyner's § 2255 motion is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006). 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) (2006). 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 Joyner has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the portion of the appeal denying § 2255 relief.

Turning to the district court's denial of Joyner's § 3582(c) motion, we have reviewed the record and find no reversible error. Accordingly, we affirm this portion of the order for the reasons stated by the district court. United States v. Joyner, Nos. 2:07-cr-00016-F-1; 2:08-cv-00034-F (E.D.N.C. Aug. 4, 2010). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED IN PART;
DISMISSED IN PART