

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6171

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THAI HONG DOAN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (1:06-cr-00463-JCC-1; 1:06-cr-00525-JCC-1; 1:08-cv-00958-JCC; 1:08-cv-00959-JCC)

Submitted: June 30, 2011

Decided: July 13, 2011

Before WILKINSON, SHEDD, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Thai Hong Doan, Appellant Pro Se. Terill Elise Canfield, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thai Hong Doan seeks to appeal the district court's orders dismissing as untimely his 28 U.S.C.A. § 2255 (West Supp. 2011) motion and denying a certificate of appealability. The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (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 Doan has not made the requisite showing. Accordingly, we deny Doan's motion for 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 the court and argument would not aid the decisional process.

DISMISSED