

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6963

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BERNARD GIBSON, SR., a/k/a Bernard Willis,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Peter J. Messitte, Senior District Judge. (8:94-cr-00454-PJM-2)

Submitted: December 20, 2011

Decided: December 22, 2011

Before MOTZ, DUNCAN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Bernard Gibson, Sr., Appellant Pro Se. Sandra Wilkinson, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bernard Gibson, Sr., seeks to appeal the district court's order denying relief on his self-styled "Petition for Relief From Judgment Pursuant to Federal Rule of Civil Procedure 60(d) and Rule 60(b)[.]" Gibson has unsuccessfully challenged his sentence numerous times, including in a true 28 U.S.C.A. § 2255 (West Supp. 2011) motion. Because Gibson's motion was a successive and unauthorized § 2255 motion, see 28 U.S.C. § 2255(h); In re Vial, 115 F.3d 1192, 1194 (4th Cir. 1997), the district court was obligated to dismiss the motion, see United States v. Winestock, 340 F.3d 200, 205 (4th Cir. 2003), and the order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006); Reid v. Angelone, 369 F.3d 363, 369 (4th Cir. 2004).

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

DISMISSED