

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-7477

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ELIJAH GAYLON JONES,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Henry F. Floyd, District Judge. (6:07-cr-00704-HFF-1; 6:10-cv-70268-HFF)

Submitted: November 27, 2012

Decided: January 3, 2013

Before AGEE, KEENAN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Elijah Gaylon Jones, Appellant Pro Se. William Corley Lucius, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Elija Gaylon Jones seeks to appeal the district court's order dismissing as untimely his 28 U.S.C.A. § 2255 (West Supp. 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) (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 Jones has not made the requisite showing. Accordingly, although we grant Jones's motion to amend his informal brief, we deny a certificate of appealability and dismiss the appeal. We deny Jones's motion for transcripts at government expense. See 28 U.S.C. § 753(f) (2006). 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