

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-6867

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JULIO CESAR PORTILLO-SOSA,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, Senior District Judge. (3:07-cr-00176-REP-1; 3:11-cv-00545-REP)

Submitted: September 27, 2012

Decided: October 2, 2012

Before MOTZ, DAVIS, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Julio Cesar Portillo-Sosa, Appellant Pro Se. Stephen David Schiller, Assistant United States Attorney, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Julio Cesar Portillo-Sosa seeks to appeal the district court's order construing his self-styled "Motion Under § 1651 for Mandamus Order – Relief" as a 28 U.S.C.A. § 2255 (West Supp. 2012) motion and dismissing it as an unauthorized, successive 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.

On appeal, we confine our review to the issues raised in the Appellant's brief. See 4th Cir. R. 34(b). Because Portillo-Sosa does not challenge the basis for the district court's disposition, Portillo-Sosa has forfeited appellate

review of the court's order. 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