

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7051

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RANDOLF MOORE, a/k/a Randy, a/k/a Booney,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Greenville. Malcolm J. Howard, Senior District Judge. (4:04-cv-00014-H; 4:95-cr-00041-H-7)

Submitted: November 13, 2012

Decided: November 15, 2012

Before NIEMEYER, GREGORY, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Randolf Moore, Appellant Pro Se. Jennifer P. May-Parker, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Randolf Moore seeks to appeal the district court's orders denying his Fed. R. Civ. P. 60(b) motion for relief from the judgment in his 28 U.S.C.A. § 2255 (West Supp. 2012) proceeding, and the subsequent Fed. R. Civ. P. 59(e) motion to alter or amend. In order for Moore to pursue this appeal, a circuit justice or judge must issue a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (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 Moore has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny Moore's motion to

remand, 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