

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7452

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARC PIERRE HALL, a/k/a Marc Valeriano, a/k/a Fella,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Charlotte. Frank D. Whitney,
District Judge. (3:95-cr-00005-FDW-1)

Submitted: June 13, 2013

Decided: June 17, 2013

Before NIEMEYER, KING, and FLOYD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

George Bundy Smith, Sr., GEORGE BUNDY SMITH & ASSOCIATES, PC,
New York, New York, for Appellant. Amy Elizabeth Ray, Assistant
United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marc Pierre Hall seeks to appeal the district court's order construing his motion to vacate his judgment as a successive 28 U.S.C.A. § 2255 (West Supp. 2012) motion and denying relief. 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 Hall has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny the Government's motion to dismiss the appeal and deny Hall's motion for bail or release pending appeal as moot. 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