

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 12-7504**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARK BENJAMIN HEMPHILL,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Cameron McGowan Currie, District Judge. (0:99-cr-00659-CMC-6; 0:12-cv-02400-CMC)

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Submitted: November 13, 2012

Decided: November 16, 2012

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Before NIEMEYER, GREGORY, and DIAZ, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Mark Benjamin Hemphill, Appellant Pro Se. Marshall Prince, II, Assistant United States Attorney, Nancy Chastain Wicker, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mark Benjamin Hemphill seeks to appeal the district court's order dismissing his 28 U.S.C.A. § 2255 (West Supp. 2012) motion as successive. 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 Hemphill 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