

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7668

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERT ANDRE LEGETTE, a/k/a Base, a/k/a Andre Legette,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. Terry L. Wooten, District Judge. (4:09-cr-01370-TLW-1)

Submitted: January 22, 2013

Decided: January 25, 2013

Before WILKINSON, NIEMEYER, and THACKER, Circuit Judges.

Affirmed in part, dismissed in part by unpublished per curiam opinion.

Robert Andre Legette, Appellant Pro Se. Alfred William Walker Bethea, Jr., Assistant United States Attorney, Florence, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Andre Legette seeks to appeal the district court's orders (1) denying his motion for reduction of sentence under 18 U.S.C. § 3582(c)(2) (2006) and denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2012) motion; and (2) denying his motion for reconsideration. We have reviewed the district court's denial of Legette's § 3582(c)(2) motion and find no reversible error. Accordingly, we affirm the district court's orders in part for the reasons stated by the district court. United States v. Legette, No. 4:09-cr-01370-TLW-1 (D.S.C. Aug. 22, 2012 & Sept. 18, 2012).

The district court's orders denying relief on Legette's § 2255 motion and denying reconsideration are 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 Legette has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal in part. 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.

AFFIRMED IN PART;
DISMISSED IN PART