

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-4281

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANGELO GALLOWAY, a/k/a Gelo,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Mark S. Davis, District Judge. (2:10-cr-00096-MSD-TEM-2)

Submitted: July 15, 2013

Decided: August 1, 2013

Before DAVIS, KEENAN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Angelo Galloway, Appellant Pro Se. Laura Marie Everhart, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Angelo Galloway appeals the district court order denying his motion for release on bond pending the resolution of his 28 U.S.C.A. § 2255 (West Supp. 2012) motion. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2006), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2006); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-46 (1949). We conclude that the district court's order is an appealable collateral order. See, e.g., Pagan v. United States, 353 F.3d 1343, 1345-46 & n.4 (11th Cir. 2003) (adopting rule and collecting cases).

A prisoner, however, still may not appeal a final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006). We conclude that this requirement applies, as well, to appealable collateral orders in post-conviction proceedings subject to the certificate of appealability requirement. See Jones v. Braxton, 392 F.3d 683, 686 (4th Cir. 2004); see also Pagan, 353 F.3d at 1346. 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 Galloway has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. In light of this disposition, we deny as moot Galloway's motions to expedite decision. 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