UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

_____

No. 13-6034

_____

UNITED STATES OF AMERICA,

                    Plaintiff – Appellee,

          v.

BILLY R. MCCULLERS, JR.,

                    Defendant - Appellant.

_____

Appeal from the United States District Court for the Eastern District of Virginia, at Newport News.   Rebecca Beach Smith, Chief District Judge.   (4:07-cr-00049-RBS-JEB-1; 4:12-cv-00037-RBS)

_____

Submitted: May 31, 2013   Decided: June 7, 2013

_____

Before NIEMEYER and KEENAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

_____

Dismissed by unpublished per curiam opinion.

_____

Billy R. McCullers, Jr., Appellant Pro Se.

_____

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

      Billy R. McCullers, Jr., seeks to appeal the district court's final order denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2012) motion. 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, including the evidentiary hearing transcript, and conclude that McCullers 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 this court and argument would not aid the decisional process.

<div align="right">

DISMISSED

</div>