

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6428

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LAMONT ALVIN MCELVEEN,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. Terry L. Wooten, Chief District Judge. (4:03-cr-00473-TLW-1; 4:12-cv-02325-TLW)

Submitted: May 30, 2013

Decided: June 5, 2013

Before SHEDD, DIAZ, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Lamont Alvin McElveen, 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Unpublished opinions are not binding precedent in this circuit.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:

Lamont Alvin McElveen seeks to appeal the district court's 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 and conclude that McElveen has not made the requisite showing.* Accordingly,

* McElveen previously was denied relief under 28 U.S.C. § 2255. Because he did not obtain pre-filing authorization from this court to file the motion at issue in this appeal, that motion is unauthorized and successive, and the district court lacked jurisdiction to consider it. See 28 U.S.C. § 2255(h); (Continued)

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.

DISMISSED

United States v. Winestock, 340 F.3d 200, 204-05 (4th Cir. 2003) (describing procedural requirements to file successive applications for collateral review). In any event, were we to consider McElveen's claim on the merits, we would conclude without difficulty that McElveen has demonstrated no debatable ground for relief.