

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6613

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHRISTOPHER RAESEAN JOHNSON, a/k/a C-Murder,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Louise W. Flanagan, District Judge. (5:05-cr-00209-FL-1; 5:12-cv-00304-FL)

Submitted: August 30, 2013

Decided: September 10, 2013

Before DAVIS, KEENAN, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Christopher Raesean Johnson, Appellant Pro Se. Jennifer P. May-Parker, Assistant United States Attorney, Felice McConnell Corpening, Seth Morgan Wood, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Christopher Raesean Johnson seeks to appeal the district court's order adopting the magistrate judge's recommendation to treat his motion to vacate as a successive 28 U.S.C.A. § 2255 (West Supp. 2013) motion and dismissing it on that basis. The district court's dismissal 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 Johnson 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.

DISMISSED