

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6775

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RONALD NATHANIEL STEWART,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. William D. Quarles, Jr., District Judge. (1:04-cr-00376-WDQ-1; 1:12-cv-00925-WDQ)

Submitted: September 24, 2013 Decided: September 27, 2013

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

Dismissed by unpublished per curiam opinion.

Ronald Nathaniel Stewart, Appellant Pro Se. Albert David Copperthite, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ronald Nathaniel Stewart seeks to appeal the district court's orders dismissing as untimely his 28 U.S.C.A. § 2255 (West Supp. 2013) motion and denying his Fed. R. Civ. P. 59(e) motion for reconsideration. The orders 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 Stewart has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We grant Stewart's motion to file a supplemental informal brief raising a claim under Alleyne v. United States, 133 S. Ct. 2151,

2155, 2163-64 (2013) (holding that any fact that increases the statutory mandatory minimum is an element of the offense and must be submitted to the jury and found beyond a reasonable doubt).^{*} 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

^{*} We note that Alleyne has not been made retroactively applicable to cases on collateral review.