

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6886

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID ISAAC MCGAHA,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. James C. Dever III, Chief District Judge. (7:09-cr-00131-D-1; 7:12-cv-00068-D)

Submitted: November 15, 2013

Decided: December 6, 2013

Before KEENAN, DIAZ, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Katherine Elaine Shea, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Raleigh, North Carolina, for Appellant. Thomas Gray Walker, United States Attorney, Kristine L. Fritz, Jennifer P. May-Parker, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Isaac McGaha seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (West Supp. 2013) 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). 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 McGaha has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny McGaha's motion to extend the time for filing a reply brief, 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