

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7223

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BRIAN JAMES BRONSON, a/k/a Little B,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever, III, Chief District Judge. (5:06-cr-00249-D-1; 5:12-cv-00467-D)

Submitted: December 17, 2013

Decided: December 19, 2013

Before KING, GREGORY, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Brian James Bronson, Appellant Pro Se. John Howarth Bennett, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, North Carolina; William Ellis Boyle, NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, Raleigh, North Carolina; Michael Gordon James, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Brian James Bronson seeks to appeal the district court's order dismissing as time-barred Bronson's second 28 U.S.C.A. § 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) (2006). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find 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 Bronson has not made the requisite showing. Bronson's motion, which challenged the validity of his career offender

* Alternatively, the district court ruled that Bronson's motion was barred by the waiver-of-rights provision included in his plea agreement.

sentence, should have been deemed a successive § 2255 motion. And in the absence of pre-filing authorization from this court, the district court lacked jurisdiction to adjudicate the timeliness of this successive § 2255 motion. See 28 U.S.C. § 2244(b)(3) (2006). 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