

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7237

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DEVON RAYMUS STURDIVANT,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Robert J. Conrad, Jr., District Judge. (3:06-cr-00194-RJC-1; 3:12-cv-00496-RJC)

Submitted: June 30, 2017

Decided: July 14, 2017

Before MOTZ, KING, and AGEE, Circuit Judges.

Dismissed in part; affirmed in part by unpublished per curiam opinion.

Devon Raymus Sturdivant, Appellant Pro Se. Amy Elizabeth Ray, Assistant United States Attorney, Asheville, North Carolina; Gretchen C. F. Shappert, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Devon Raymus Sturdivant filed a pro se 28 U.S.C. § 2255 (2012) motion seeking relief from his sentence. Subsequently, Sturdivant, through counsel, filed a supplement in which he also sought relief from his sentence under 28 U.S.C. § 2241 (2012) and through petitions for writ of error coram nobis and audita querela. The district court denied relief. Sturdivant appeals.

With respect to the denial of relief under § 2255, the district court's order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (2012). 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) (2012). 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 Sturdivant has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss this portion of the appeal.

The district court also denied relief under § 2241 and denied Sturdivant's petitions for writ of error coram nobis and audita querela. With respect to this portion of the district court's order, we have reviewed the record and find no reversible error.

Accordingly, we affirm for the reasons stated by the district court. *United States v. Sturdivant*, Nos. 3:06-cr-00194-RCJ-1; 3:12-cv-00496-RJC (W.D.N.C. June 6, 2013).

We deny the motion to redact sensitive information and 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 IN PART;
AFFIRMED IN PART*