

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7382

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

VICTOR WILLIAM HARGRAVE, a/k/a David Lee Hargrave

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. James A. Beaty, Jr., District Judge. (4:95-cr-00186-JAB-1; 1:12-cv-00989-JAB-JEP)

Submitted: December 19, 2013

Decided: December 24, 2013

Before SHEDD, DAVIS, and FLOYD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Victor William Hargrave, Appellant Pro Se. Robert Michael Hamilton, Angela Hewlett Miller, Assistant United States Attorneys, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Victor William Hargrave seeks to appeal the district court's order adopting the report and recommendation of the magistrate judge, construing Hargrave's coram nobis petition as a 28 U.S.C.A. § 2255 (West Supp. 2013) motion, and dismissing it as successive. 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 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 Hargrave 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