

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7545

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WAYNE DWIGHT SIMMONS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Elizabeth City. James C. Dever, III, Chief District Judge. (2:10-cr-00009-D-1; 2:12-cv-00005-D)

Submitted: January 21, 2014

Decided: January 24, 2014

Before MOTZ, KEENAN, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Halerie Fay Mahan, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Raleigh, North Carolina, for Appellant. David A. Bragdon, Assistant United States Attorney, J. Frank Bradsher, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Wayne Dwight Simmons seeks to appeal the district court's orders denying relief on his 28 U.S.C. § 2255 (2012) motion based on his collateral review waiver and denying reconsideration. The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. See 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 Simmons has not made the requisite showing. See United States v. Copeland, 707 F.3d 522, 528-30 (4th Cir. 2013); United States v. Blick, 408 F.3d 162, 172 (4th Cir. 2005); United States v. Lemaster, 403 F.3d 216, 220 (4th Cir. 2005).

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