

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7672

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ZACHARY WILLIAM SANDERS,

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-00253-D-1; 5:12-cv-00503-D)

Submitted: January 29, 2015

Decided: February 9, 2015

Before WILKINSON, KING, and FLOYD, Circuit Judges.

Dismissed in part; affirmed in part by unpublished per curiam opinion.

Zachary William Sanders, Appellant Pro Se. Jane J. Jackson, Jennifer P. May-Parker, Assistant United States Attorneys, Felice McConnell Corpening, Adam Frederick Hulbig, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Zachary William Sanders seeks to appeal the district court's order dismissing as untimely his 28 U.S.C. § 2255 (2012) motion and denying his motion for reduction of sentence under 18 U.S.C. § 3582(c)(2) (2012). We dismiss in part, and affirm in part.

The district court's dismissal of Sanders' § 2255 motion 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 Sanders has not made the requisite showing. Accordingly,

we deny a certificate of appealability and dismiss this portion of the appeal.

As to the district court's denial of Sanders' § 3582(c)(2) motion, we have reviewed the record and find no reversible error. Accordingly, we affirm this portion of the district court's order for the reasons stated by the district court. See United States v. Sanders, Nos. 5:06-cr-00253-D-1, 5:12-cv-00503-D (E.D.N.C. Sept. 13, 2013). 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 IN PART;
AFFIRMED IN PART