

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-8035

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SAMUEL LOWE,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Newport News. Mark S. Davis, District Judge. (4:10-cr-00132-MSD-DEM-2; 4:12-cv-00093-MSD)

Submitted: February 27, 2014

Decided: March 5, 2014

Before NIEMEYER, KING, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Samuel Lowe, Appellant Pro Se. Laura Pellatiroy Tayman, Assistant United States Attorney, Kristine Elizabeth Wolfe, OFFICE OF THE UNITED STATES ATTORNEY, Newport News, Virginia, for Appellant.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Samuel Lowe seeks to appeal the district court's order dismissing as untimely and without merit his 28 U.S.C. § 2255 (2012) 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) (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 Lowe has not made the requisite showing. Accordingly, we deny Lowe's motion for 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