UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 14-6013

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UNITED STATES OF AMERICA,

                 Plaintiff – Appellee,

      v.

MARTIN KALCHSTEIN,

                 Defendant - Appellant.

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Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Frank D. Whitney, Chief District Judge. (3:09-cr-00057-FDW-1; 3:13-cv-00624-FDW)

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Submitted:  May 29, 2014           Decided:  June 2, 2014

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Before SHEDD, WYNN, and THACKER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Martin Kalchstein, Appellant Pro Se. Patrick M. Donley, Senior Litigation Counsel, Ellen Ruth Meltzer, Special Counsel, Washington, D.C., for Appellee.

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PER CURIAM:

Martin Kalchstein seeks to appeal the district court's order dismissing as untimely 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 Kalchstein has not made the requisite showing. Accordingly, we deny Kalchstein'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.

<div align="right">DISMISSED</div>