

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6039

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TIMOTHY EDWARD SIMMS, a/k/a DeNasty,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. William N. Nickerson, Senior District Judge. (1:97-cr-00355-WMN-4; 1:13-cv-02782-WMN)

Submitted: August 20, 2014

Decided: August 26, 2014

Before MOTZ, SHEDD, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Timothy Edward Simms, Appellant Pro Se. Robert Reeves Harding, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Timothy Edward Simms seeks to appeal the district court's order dismissing his 28 U.S.C. § 2255 (2012) motion without prejudice 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) (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 Simms has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. To the extent Simms moves in his informal brief for authorization under 28 U.S.C. § 2244 (2012) to file a successive § 2255 motion, such motion is denied. Finally, 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