

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6133

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DELVAZ SAUNDERS,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. J. Frederick Motz, Senior District Judge. (1:08-cr-00556-JFM-1; 1:13-cv-02604-JFM)

Submitted: August 21, 2014

Decided: September 3, 2014

Before KEENAN and WYNN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Delvaz Saunders, Appellant Pro Se. Christine Marie Celeste, Ayn Brigoli Ducao, OFFICE OF THE UNITED STATES ATTORNEY, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Delvaz Saunders seeks to appeal the district court's order denying relief on 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 Saunders has not made the requisite showing. The district court lacked jurisdiction to consider Saunders' motion to vacate

because it was a successive and unauthorized § 2255 motion.* In the absence of pre-filing authorization from this court, the district court lacks jurisdiction to hear a successive § 2255 motion. See 28 U.S.C. § 2244(b)(3) (2012). 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

* In its memorandum denying relief on Saunders' first § 2255 motion, the district court noted its intent to enter an amended judgment reducing Saunders' term of supervised release from the ten-year term imposed at sentencing to the five-year term stipulated in the plea agreement. However, the district court's docket does not reflect that it has entered an amended judgment reducing Saunders' term of supervised release, and in fact, a subsequent amended judgment indicates a supervised release term of ten years.