

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6338

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERT GARTRELL BOWLING,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Henry M. Herlong, Jr., Senior District Judge. (6:09-cr-00894-HMH-1; 6:13-cv-00451-HMH)

Submitted: June 19, 2014

Decided: June 23, 2014

Before NIEMEYER, MOTZ and KEENAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Robert Gartrell Bowling, Appellant Pro Se. William Jacob Watkins, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Gartrell Bowling seeks to appeal the district court's order denying in part and granting in part his 28 U.S.C. § 2255 (2012) motion,* as well as its order denying his Fed. R. Civ. P. 59(e) motion, and he has filed a motion for a certificate of appealability. The orders Bowling seeks to appeal are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (2006). 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) (2006). 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.

* The district court found that Bowling was incorrectly sentenced pursuant to 18 U.S.C. § 1028(a)(3) (2012). Bowling has since been resentenced on his § 1028(a)(3) convictions.

We have independently reviewed the record and conclude that Bowling has not made the requisite showing. 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