

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6362

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTWANE JAMALE JOHNSON,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. James C. Dever, III, Chief District Judge. (7:07-cr-00043-D-1; 7:12-cv-00001-D)

Submitted: April 16, 2015

Decided: April 20, 2015

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

Dismissed in part and affirmed in part by unpublished per curiam opinion.

Antwane Jamale Johnson, Appellant Pro Se. Stephen Aubrey West, Assistant United States Attorney, Shailika S. Kotiya, Timothy Severo, Augustus D. Willis, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Antwane Jamale Johnson seeks to appeal the district court's orders denying relief on his 28 U.S.C. § 2255 (2012) and 18 U.S.C. § 3582(c)(2) (2012) motions and denying his motion under Fed. R. Civ. P. 59(e). The orders addressing § 2255 are 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 Johnson has not made the requisite showing. Accordingly, we deny Johnson's motion for a certificate of appealability and

dismiss the appeal as to the § 2255 motion and denial of the Rule 59(e) motion.

As to the 18 U.S.C. § 3582(c)(2) motion for a sentence reduction, we have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. United States v. Johnson, Nos. 7:07-cr-00043-D-1; 7:12-cv-00001-D (E.D.N.C. Aug. 14, 2013; Jan. 16, 2014)

We deny Johnson's motion for appointment of counsel. 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 PART;
AFFIRMED IN PART