

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6398

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

NEIL CALVIN JOHNSON,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. R. Bryan Harwell, District Judge. (4:07-cr-00900-RBH-1; 4:10-cv-70246-RBH)

Submitted: September 23, 2014 Decided: September 25, 2014

Before SHEDD, AGEE, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Neil Calvin Johnson, Appellant Pro Se. William Norman Nettles, United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Neil Calvin Johnson seeks to appeal the district court's order denying, as successive, his motion to amend 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 Johnson has not made the requisite showing. The district court lacked jurisdiction to consider Johnson's motion to amend his § 2255 motion because it was a successive and unauthorized

§ 2255 motion.* Accordingly, we deny a certificate of appealability, deny as moot Johnson's motion to expedite, 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 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).