

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 14-6986**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SEAN LAMONT DUDLEY, a/k/a John D. Brown,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Richard L. Voorhees, District Judge. (5:97-cr-00001-RLV-1; 5:14-cv-00073-RLV)

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Submitted: November 20, 2014

Decided: November 25, 2014

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

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Affirmed in part and dismissed in part by unpublished per curiam opinion.

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Sean Lamont Dudley, Appellant Pro Se. Robert J. Higdon, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Sean Lamont Dudley, a federal prisoner, seeks to appeal the district court's order dismissing his self-styled "Motion to Correct Sentence Due to Intervening Change in Circuit Law[.]" In the motion, Dudley asserted he was entitled to relief under 28 U.S.C. § 2255 (2012), and alternatively, through a writ of audita querela, under the All Writs Act, 28 U.S.C. § 1651 (2012), or pursuant to Fed. R. Civ. P. 60(b). Having reviewed the record, we affirm the district court's denial of audita querela relief. See United States v. Dudley, Nos. 5:97-cr-00001-RLV-1, 5:14-cv-00073-RLV (W.D.N.C. June 10, 2014).

To the extent the district court dismissed Dudley's motion as an unauthorized successive § 2255 motion, that portion of 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 Dudley has not made the requisite showing.

Accordingly, we affirm in part, and deny a certificate of appealability and dismiss the appeal in part. 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.

AFFIRMED IN PART;  
DISMISSED IN PART