

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-7035

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHRISTOPHER CORNELIUS DANIELS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. W. Earl Britt, Senior District Judge. (5:11-cr-00057-BR-1; 5:14-cv-00337-BR)

Submitted: October 16, 2014

Decided: October 22, 2014

Before MOTZ, WYNN, and THACKER, Circuit Judges.

Affirmed in part, dismissed in part by unpublished per curiam opinion.

Christopher Cornelius Daniels, Appellant Pro Se. Nathan A. Huff, Seth Morgan Wood, OFFICE OF THE UNITED STATES ATTORNEY, Jennifer P. May-Parker, Evan Rikhye, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Christopher Cornelius Daniels seeks to appeal the district court's order dismissing as successive and unauthorized his 28 U.S.C. § 2255 (2012) motion and denying his alternate requests for relief under 28 U.S.C. § 2241 (2012) and through a writ of audita querela. Having reviewed the record, we affirm the district court's denial of § 2241 and audita querela relief. See Daniels v. United States, Nos. 5:11-cr-00057-BR-1; 5:14-cv-00337-BR (E.D.N.C. June 18, 2014).

That part of the district court's order denying Daniels's motion as an unauthorized successive § 2255 motion 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 Daniels has not made the requisite showing.

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