

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-7455

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THOMAS NEIL PICKETT,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. James C. Fox, Senior District Judge. (7:04-cr-00047-F-1; 7:14-cv-00050-F)

Submitted: February 12, 2015

Decided: February 18, 2015

Before MOTZ, WYNN, and FLOYD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Thomas Neil Pickett, Appellant Pro Se. Eric David Goulian, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas Neil Pickett seeks to appeal from the district court's order construing his motion to correct a clerical error as a 28 U.S.C. § 2255 (2012) motion, and dismissing it as successive. 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 or underlying habeas application states a debatable claim of the denial of a constitutional right. Reid v. Angelone, 369 F.3d 363, 371 (4th Cir. 2004).

We have independently reviewed the record and conclude that Pickett 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