

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-7513

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BRUCE LEE RICHARDSON, a/k/a Chino,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Bryson City. Martin K. Reidinger, District Judge. (2:06-cr-00010-MR-DLH-1; 2:09-cv-00016-MR))

Submitted: August 21, 2015

Decided: September 24, 2015

Before MOTZ and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Bruce Lee Richardson, Appellant Pro Se. Donald David Gast, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bruce Lee Richardson seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 motion. Richardson characterized the instant filing as a motion under Federal Rule of Civil Procedure 60(b)(6). The district court reclassified the filing as a § 2255 motion because it reasserted the same contentions Richardson had raised in prior § 2255 and Rule 60(b) motions. The district court then denied relief on the merits. This court does not require a certificate of appealability to examine whether the district court properly categorized Richardson's motion. United States v. McRae, 793 F.3d 392, 398 (4th Cir. 2015). Upon independent review of the record we conclude that the district court properly categorized the instant motion.

The order denying relief on Richardson's § 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." Id. § 2253(c)(2). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that "reasonable jurists would find the district court's assessment of the constitutional claims 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 Richardson 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