

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-7641

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID A. HAGEN, a/k/a Antonio Diez, a/k/a David DeFusco,
a/k/a David DuFusco,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Charlotte. W. Earl Britt, Senior
District Judge. (3:08-cr-00093-WEB-DCK-2; 3:13-cv-00394-WEB)

Submitted: July 16, 2015

Decided: August 6, 2015

Before AGEE and KEENAN, Circuit Judges, and DAVIS, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Carole Melissa Owen, Noell Peter Tin, TIN, FULTON, WALKER &
OWEN, PLLC, Charlotte, North Carolina, for Appellant. Amy
Elizabeth Ray, Assistant United States Attorney, Asheville,
North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David A. Hagen seeks to appeal the district court's orders denying relief on Hagen's 28 U.S.C. § 2255 (2012) motion and denying his Fed. R. Civ. P. 59(e) motion to alter or amend judgment. The orders are 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 Hagen has not made the requisite showing. Accordingly, we deny Hagen's motion for a certificate of appealability, deny leave to proceed in forma pauperis, and dismiss the appeal. Finally, we deny as unnecessary Hagen's motion for consideration of the

trial transcript filed in his criminal 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