

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-7857

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RICKY LEE TYNDALL,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca Beach Smith, Chief District Judge. (2:10-cr-00200-RBS-DEM-1; 2:13-cv-00574-RBS)

Submitted: March 12, 2015

Decided: March 17, 2015

Before GREGORY, DIAZ, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Ricky Lee Tyndall, Appellant Pro Se. Cameron Rountree, Special Assistant United States Attorney, Virginia Beach, Virginia; Elizabeth Marie Yusi, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ricky Lee Tyndall seeks to appeal the district court's order dismissing his 28 U.S.C. § 2255 (2012) motion as successive and denying Tyndall's motion to file a late appeal of his first § 2255 motion. 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 Tyndall has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny Tyndall's motion to amend the caption, 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