

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6863

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES W. BAILEY, JR., a/k/a James W. "Bill" Bailey, Jr.,

Defendant - Appellant.

No. 15-7197

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES W. BAILEY, JR., a/k/a James W. "Bill" Bailey, Jr.,

Defendant - Appellant.

Appeals from the United States District Court for the Western
District of North Carolina, at Asheville. Martin K. Reidinger,
District Judge. (1:11-cr-00010-MR-DLH-1; 1:14-cv-00310-MR)

Submitted: November 17, 2015

Decided: November 19, 2015

Amended: November 19, 2015

Before SHEDD, DUNCAN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

James W. Bailey, Jr., Appellant Pro Se. Richard A. Friedman, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., Amy Elizabeth Ray, Richard Lee Edwards, Corey F. Ellis, Paul Bradford Taylor, Assistant United States Attorneys, Asheville, North Carolina, Benjamin Bain-Creed, OFFICE OF THE UNITED STATES ATTORNEY, William A. Brafford, Jonathan Henry Ferry, Assistant United States Attorneys, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James W. Bailey, Jr., seeks to appeal the district court's orders denying his prejudgment motion to compel and denying relief on his 28 U.S.C. § 2255 (2012) motion. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2012), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2012); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-46 (1949). The order denying Bailey's motion to compel is neither a final order nor an appealable interlocutory or collateral order, nor is it appealable under the cumulative judgment rule. See In re Bryson, 406 F.3d 284, 288 (4th Cir. 2005). Accordingly, we dismiss Case No. 15-6863 for lack of jurisdiction.

The order denying Bailey'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." 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 Bailey has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss Case No. 15-7197. 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