

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7026

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID A. WHEELER, a/k/a Sampson,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Mark S. Davis, District Judge. (2:11-cr-00036-MSD-FBS-3; 2:14-cv-00029-MSD)

Submitted: October 20, 2015

Decided: October 23, 2015

Before MOTZ, KEENAN, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

David A. Wheeler, Appellant Pro Se. Sherrie Scott Capotosto, Melissa Elaine O'Boyle, Assistant United States Attorneys, V. Kathleen Dougherty, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David A. Wheeler seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2012) 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 Wheeler has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny Wheeler's motion to appoint counsel, and dismiss the appeal. We further deny Wheeler's motion for transcripts at the Government's expense as moot because the relevant trial transcripts are already in the

record. 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