

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7428

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TONY RANDALL LOGAN,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., Chief District Judge. (1:09-cr-00012-WO-1; 1:12-cv-00699-WO-JEP)

Submitted: January 28, 2016

Decided: February 18, 2016

Before KING, SHEDD, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Tony Randall Logan, Appellant Pro Se. Michael Francis Joseph, Angela Hewlett Miller, Assistant United States Attorneys, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tony Randall Logan seeks to appeal the district court's order accepting the recommendations of the magistrate judge and 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 Logan has not made the requisite showing.* Accordingly, we deny

* We note that the timely filing of objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation. (Continued)

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

United States v. Midgette, 478 F.3d 616, 621-22 (4th Cir. 2007); Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Because Logan, a pro se litigant, received notice of the consequences of failing to object and yet failed to file objections to the magistrate judge's initial recommendation, Logan has waived appellate review of his claims under United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc). See Midgette, 478 F.3d at 621-22.