

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 16-6180**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THOMAS CREIGHTON SHRADER,

Defendant - Appellant.

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Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. Irene C. Berger, District Judge. (1:09-cr-00270-1; 1:13-cv-33098)

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Submitted: August 31, 2016

Decided: September 7, 2016

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Before WILKINSON, MOTZ, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Thomas Creighton Shrader, Appellant Pro Se. John Lanier File, Assistant United States Attorney, Beckley, West Virginia; Betty Adkins Pullin, Thomas C. Ryan, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas Creighton Shrader 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 Shrader has not made the requisite showing.\* Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense

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\* Because the issue was not clearly raised by Shrader or fully addressed by the district court, we express no opinion as to whether Shrader may be entitled to relief under Johnson v. United States, 135 S. Ct. 2551 (2015).

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