

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6233

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CATHY DIANE FERGUSON,

Defendant - Appellant.

Appeal from the United States District Court for the District of
South Carolina, at Spartanburg. Timothy M. Cain, District Judge.
(7:09-cr-00890-TMC-1)

Submitted: May 26, 2016

Decided: June 1, 2016

Before TRAXLER, Chief Judge, and NIEMEYER and FLOYD, Circuit
Judges.

Dismissed by unpublished per curiam opinion.

Cathy Diane Ferguson, Appellant Pro Se. David Calhoun Stephens,
Assistant United States Attorney, Greenville, South Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Cathy Ferguson seeks to appeal from the district court's order construing her motion to amend her sentence and motion for correction of restitution as an unauthorized successive 28 U.S.C. § 2255 (2012) motion, and denying it on that basis. 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 Ferguson has not made the requisite showing. Accordingly, we deny 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