

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6593

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FRANK BAILEY,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Richard D. Bennett, District Judge. (1:07-cr-00559-RDB-1; 1:12-cv-03557-RDB)

Submitted: October 18, 2016

Decided: October 27, 2016

Before GREGORY, Chief Judge, and KING and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

John J. Korzen, WAKE FOREST UNIVERSITY, Winston-Salem, North Carolina, for Appellant. Debra Lynn Dwyer, Michael Clayton Hanlon, Assistant United States Attorneys, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Frank Bailey seeks to appeal the district court's orders dismissing as time-barred his 28 U.S.C. § 2255 (2012) motion and denying his motion to alter, amend, or otherwise seek relief from the court's judgment. The orders are 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 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