

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6816

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES R. NIBLOCK,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Gerald Bruce Lee, District Judge. (1:02-cr-00568-GBL-1; 1:04-cv-00361-HEH)

Submitted: October 13, 2016

Decided: October 18, 2016

Before NIEMEYER, DUNCAN, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Joseph A. Connors, III, LAW OFFICES OF JOSEPH A. CONNORS III, McAllen, Texas, for Appellant. Christopher John Catizone, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James R. Niblock seeks to appeal from the district court's order construing his motion to adjudicate claims as a successive 28 U.S.C. § 2255 (2012) motion and denying it on that basis and also from the denial of Niblock's motions for reconsideration and for a hearing. 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 Niblock 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