

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7505

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

YVONNE MARIE FOUNTAIN,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Martin K. Reidinger, District Judge. (1:09-cr-00013-MR-9; 1:12-cv-00125-MR)

Submitted: May 18, 2017

Decided: May 30, 2017

Before WILKINSON, SHEDD, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Yvonne Marie Fountain, Appellant Pro Se. Thomas Michael Kent, OFFICE OF THE UNITED STATES ATTORNEY, Amy Elizabeth Ray, Assistant United States Attorney, Asheville, North Carolina; Thomas A. O'Malley, OFFICE OF THE UNITED STATES ATTORNEY, Jill Westmoreland Rose, United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Yvonne Marie Fountain seeks to appeal the district court's order denying relief on her 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 Fountain has not made the requisite showing. Accordingly, we deny Fountain's motion for appointment of counsel, 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