

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7600

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

CRAIG A. MURPHY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, Senior District Judge. (3:96-cr-00066-REP-17; 3:16-cv-00764-REP; 3:16-cv-00765-REP)

Submitted: March 20, 2017

Decided: March 28, 2017

Before MOTZ, Circuit Judge, and HAMILTON and DAVIS, Senior Circuit Judges.

Dismissed by unpublished per curiam opinion.

Craig A. Murphy, Appellant Pro Se. Brian R. Hood, Heather Hart Mansfield, OFFICE OF THE UNITED STATES ATTORNEY, Stephen Wiley Miller, Elizabeth Wu, Assistant United States Attorneys, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Craig A. Murphy seeks to appeal the district court's order construing his filings as successive motions under 28 U.S.C. § 2255 (2012) and dismissing them for lack of jurisdiction. 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 Murphy 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