

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6615

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CRAIG MAURICE HARRIS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, Chief District Judge. (5:12-cr-00120-D-1)

Submitted: October 31, 2017

Decided: November 7, 2017

Before WILKINSON, AGEE, and HARRIS, Circuit Judges.

Affirmed in part; dismissed in part by unpublished per curiam opinion.

Craig Maurice Harris, Appellant Pro Se. Shailika S. Kotiya, OFFICE OF THE UNITED STATES ATTORNEY, Donald Russell Pender, Rudy E. Renfer, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Craig Maurice Harris appeals the district court's order denying his 18 U.S.C. § 3582(c)(2) (2012) motion and seeks to appeal the district court's order dismissing as successive his 28 U.S.C. § 2255 (2012) motion.* Harris makes no argument as to the denial of relief on his § 3582(c)(2) motion. Therefore, Harris has waived appellate review of that order. *See United States v. Winfield*, 665 F.3d 107, 111 n.4 (4th Cir. 2012) (stating argument not raised in opening brief considered waived). Accordingly, we affirm the district court's order denying § 3582(c)(2) relief. *United States v. Harris*, No. 5:12-cr-00120-D-1 (E.D.N.C. May 9, 2017).

The district court's order dismissing Harris' § 2255 motion 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 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 v. McDaniel*, 529 U.S. 473, 484-85 (2000).

We have independently reviewed the record and conclude that Harris has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal with respect to the § 2255 motion. We dispense with oral argument because the

* Because both orders were entered on the same day and Harris' notice of appeal does not specify which order he seeks to appeal, we look to the arguments raised in his informal brief.

facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED IN PART;
DISMISSED IN PART*