

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6616

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DOROTHY LEE ANDERSON,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Joseph F. Anderson, Jr., Senior District Judge. (3:11-cr-00837-JFA-1; 3:17-cv-00536-JFA)

Submitted: September 26, 2017

Decided: September 28, 2017

Before NIEMEYER and TRAXLER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed in part and affirmed in part by unpublished per curiam opinion.

Dorothy Lee Anderson, Appellant Pro Se. Winston David Holliday, Jr., Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Dorothy Lee Anderson seeks to appeal the district court's order denying relief on her motion seeking the benefit of Amendment 794 to the Sentencing Guidelines. The district court construed the pleading as either a motion filed under 28 U.S.C. § 2255 (2012), or as a motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c) (2012), and concluded that Anderson was not entitled to relief.

To the extent that Anderson seeks to appeal the denial of relief under § 2255, 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 (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 Anderson has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal as to the denial of § 2255 relief.

To the extent that Anderson seeks to appeal the denial of relief under § 3582(c), we have reviewed the record and find no reversible error. Accordingly we affirm on the

reasoning of the district court. *United States v. Anderson*, Nos. 3-cr-00837-JFA-1; 3:17-cv-00536-JFA (D.S.C. Mar. 29, 2017). 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 IN PART; AFFIRMED IN PART