

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6773

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

OLUWASEGUN OGUN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Newport News. Rebecca Beach Smith, Chief District Judge. (4:12-cr-00004-RBS-TEM-1; 4:17-cv-00051-RBS; 4:17-cv-00052-RBS)

Submitted: August 24, 2017

Decided: August 29, 2017

Before GREGORY, Chief Judge, and SHEDD and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Oluwasegun Ogun, Appellant Pro Se. Robert Edward Bradenham, II, Eric Matthew Hurt, Howard Jacob Zlotnick, Assistant United States Attorneys, Amy Elizabeth Cross, Special Assistant United States Attorney, Andrew Lamont Creighton, Rachel E. Timm, OFFICE OF THE UNITED STATES ATTORNEY, Newport News, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Oluwasegun Ogun seeks to appeal the district court's order construing his motion challenging his criminal judgment as a 28 U.S.C. § 2255 (2012) motion and dismissing it as successive. 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 Ogun 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