

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-7114

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FRANKIE CORNELL ELLIS, JR., a/k/a Nitty,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Greenville. W. Earl Britt, Senior District Judge. (4:07-cr-00026-BR-1; 4:16-cv-00130-BR)

Submitted: December 21, 2017

Decided: December 28, 2017

Before WILKINSON and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Frankie Cornell Ellis, Jr., Appellant Pro Se. John Howarth Bennett, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, North Carolina; Seth Morgan Wood, Assistant United States Attorney, Kimberly Ann Moore, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina; Imelda Jean Pate, OFFICE OF THE DISTRICT ATTORNEY, Kinston, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Frankie Cornell Ellis, Jr., seeks to appeal the district court's order denying relief on his 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 Ellis 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