

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-6288

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERT BENTON, JR.,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence.
Cameron McGowan Currie, Senior District Judge. (4:97-cr-00866-CMC-1)

Submitted: May 24, 2018

Decided: May 30, 2018

Before NIEMEYER, MOTZ, and FLOYD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Robert Benton, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Benton, Jr., seeks to appeal the district court's order construing his motion to correct a clerical error as a 28 U.S.C. § 2255 (2012) motion and dismissing the motion as successive and unauthorized. 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 Benton 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