

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 18-6493

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GERALD ANTHONY THOMAS, JR.,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Harrisonburg. Michael F. Urbanski, Chief District Judge. (5:15-cr-00017-MFU-RSB-1; 5:17-cv-81278-MFU-RSB)

Submitted: September 27, 2018

Decided: October 5, 2018

Before AGEE and WYNN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Gerald Anthony Thomas, Jr., Appellant Pro Se. Jeb Thomas Terrien, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Harrisonburg, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gerald Anthony Thomas, Jr., seeks to appeal the district court's final order denying his Fed. R. Civ. P. 59(e) motion to alter or amend the district court's judgment in Thomas' 28 U.S.C. § 2255 (2012) proceeding. 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 Thomas 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