

**UNPUBLISHED**

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

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**No. 18-7386**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MERVYN A. PHELAN, SR.,

Defendant - Appellant.

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Appeal from the United States District Court for the District of Maryland, at Baltimore.  
James K. Bredar, Chief District Judge. (1:12-cr-00103-JKB-2; 1:16-cv-00288-JKB)

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Submitted: March 13, 2019

Decided: April 2, 2019

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Before KEENAN and HARRIS, Circuit Judges, and TRAXLER, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Mervyn A. Phelan, Sr., Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mervyn A. Phelan, Sr., seeks to appeal the district court's orders denying relief on his 28 U.S.C. § 2255 (2012) motion. The orders are 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 Phelan has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny Phelan's motion to appoint counsel and 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*