

UNPUBLISHED

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

No. 19-7128

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TRACY JARVIS ALLEN,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence.
Terry L. Wooten, Senior District Judge. (4:05-cr-00340-TLW-1; 4:16-cv-01506-TLW)

Submitted: October 17, 2019

Decided: October 22, 2019

Before MOTZ and QUATTLEBAUM, Circuit Judges, and HAMILTON, Senior Circuit
Judge.

Dismissed by unpublished per curiam opinion.

Tracy Jarvis Allen, Appellant Pro Se. Justin William Holloway, Assistant United States
Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Florence, South Carolina,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tracy Jarvis Allen seeks to appeal the district court's order denying relief on his authorized, successive 28 U.S.C. § 2255 (2012) motion in which Allen raised a *Johnson** challenge to his armed career criminal designation. 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 Allen has not made the requisite showing. Accordingly, we deny Allen's motion for 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

* *Johnson v. United States*, 135 S. Ct. 2551 (2015).