

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-7339

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MACK BROOKS,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Parkersburg. Joseph R. Goodwin, District Judge. (6:12-cr-00059-2; 2:16-cv-03207)

Submitted: May 21, 2020

Decided: May 26, 2020

Before AGEE and QUATTLEBAUM, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed in part and affirmed in part by unpublished per curiam opinion.

Mack Brooks, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mack Brooks seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2018) motion. The district court's order also denied Brooks' request for relief under Amendment 782 to the Sentencing Guidelines, which was essentially a request for a sentence reduction under 18 U.S.C. § 3582(c) (2018).

An order denying § 2255 relief is not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1)(B) (2018). 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) (2018). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists could find the district court's assessment of the constitutional claims debatable or wrong. *See Buck v. Davis*, 137 S. Ct. 759, 773-74 (2017). 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. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). We have independently reviewed the record and conclude that Brooks has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss this part of the appeal.

We have also reviewed the record regarding Brooks' claim that he is entitled to a sentence reduction under Amendment 782 and find no reversible error in the district court's denial of relief. The record reveals that Brooks' Guidelines range was the statutory maximum sentence of 20 years, *see* 21 U.S.C. § 841(b)(1)(C) (2018); U.S. Sentencing

Guidelines Manual § 5G1.1(a) (2012), and application of Amendment 782 would not lower Brooks' sentencing range. We therefore affirm this portion of Brooks' 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 IN PART,
AFFIRMED IN PART*