UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-7832

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TONY B. ALEXANDER, a/k/a Sealed Dft #1,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Max O. Cogburn, Jr., District Judge. (3:95-cr-00178-MOC-1; 3:18-cv-00114-MOC)

Submitted: April 20, 2020 Decided: May 18, 2020

Before NIEMEYER and FLOYD, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Tony B. Alexander, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tony B. Alexander seeks to appeal the district court's orders denying relief on his 28 U.S.C. § 2255 (2018) motion and denying his Fed. R. Civ. P. 60 motion.[*] The orders are 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 would 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 Alexander 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

[*] Because the claims Alexander raised in his Rule 60 motion challenged the validity of his revocation judgment, the motion should have been construed as successive § 2255 motion. *See United States v. McRae*, 793 F.3d 392, 397-40 (4th Cir. 2015). In the absence of prefiling authorization from this court, the district court lacked jurisdiction to consider a successive § 2255 motion. *See* 28 U.S.C. §§ 2244(b)(3), 2255(h) (2018).