

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-6741

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CEDRIC ANTOINE MCKENITH, a/k/a Antoine Cedric McKenith,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Wilmington. James C. Dever III, District Judge. (7:14-cr-00026-D-1; 7:19-cv-00203-D)

Submitted: November 22, 2022

Decided: November 29, 2022

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

Dismissed in part, affirmed in part by unpublished per curiam opinion.

Cedric Antoine McKenith, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Cedric Antoine McKenith seeks to appeal the district court's order dismissing his 28 U.S.C. § 2255 motion and denying his motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). We dismiss in part and affirm in part.

The district court's order dismissing McKenith's § 2255 motion is not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1)(B). 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). 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 McKenith has not made the requisite showing. *See United States v. Scarfo*, 41 F.4th 136, 195 (3d Cir. 2022) (explaining that *Rehaif v. United States*, 139 S. Ct. 2191 (2019), "has no bearing on [18 U.S.C.] § 922(d)"). Accordingly, we deny a certificate of appealability and dismiss this portion of the appeal.

As to the denial of McKenith's motion for compassionate release, we review the district court's order for abuse of discretion. *See United States v. High*, 997 F.3d 181, 185 (4th Cir. 2021). Limiting our review to the issues raised in McKenith's informal brief, *see*

4th Cir. R. 34(b); *Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014), we discern no abuse of discretion in the district court's denial of McKenith's motion. We therefore affirm the district court's order as to that motion.

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*