

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-7090

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FRANKLIN ANTONIO RIOS, a/k/a Frank, a/k/a Frankie,

Defendant - Appellant.

No. 22-7091

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FRANKLIN ANTONIO RIOS, a/k/a Frank, a/k/a Frankie,

Defendant - Appellant.

Appeals from the United States District Court for the Eastern District of North Carolina, at
Raleigh. James C. Dever III, District Judge. (5:18-cr-00051-D-1; 5:22-cv-00060-D)

Submitted: July 25, 2023

Decided: July 27, 2023

Before WYNN and HEYTENS, Circuit Judges, and FLOYD, Senior Circuit Judge.

Dismissed in part, affirmed in part by unpublished per curiam opinion.

Franklin Antonio Rios, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Franklin Antonio Rios seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 motion and his 18 U.S.C. § 3582(c)(1)(A) motion for compassionate release. The court's order denying relief on Rios' 28 U.S.C. § 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*, 580 U.S. 100, 115-17 (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)).

Limiting our review of the record to the issues raised in Rios' informal brief, we conclude that Rios has not made the requisite showing. *See* 4th Cir. R. 34(b); *see also Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014) ("The informal brief is an important document; under Fourth Circuit rules, our review is limited to issues preserved in that brief."). Accordingly, we deny a certificate of appealability and dismiss the appeal of the district court's denial of § 2255 relief.

The district court also denied, in the same order, Rios' motion for compassionate release. Rios does not challenge that decision on appeal, and he has thus forfeited review

of that decision. *See* 4th Cir. R. 34(b); *see also Jackson*, 775 F.3d at 177. We therefore affirm the district court's order insofar as it denied compassionate release.

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*