UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-8076

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

SAMUEL RODNEY HOLMES,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Aiken. Margaret B. Seymour, Senior District Judge. (1:05-cr-01253-MBS-1; 1:10-cv-70305-MBS)

Submitted: April 18, 2013 Decided: April 22, 2013

Before WILKINSON, GREGORY, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Samuel Rodney Holmes, Appellant Pro Se. Susan Zalkin Hitt, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

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PER CURIAM:

Samuel Rodney Holmes seeks to appeal the district court's orders denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2012) motion. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (2006). 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) (2006). 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 Holmes has not made the requisite showing.* Accordingly, we

* Holmes' § 2255 motion was filed within one year after the Supreme Court's denial of certiorari review of his direct appeal. United States v. Holmes, 339 F. App'x 334 (4th Cir.) (No. 08-4916), cert. denied, 130 S. Ct. 816 (Dec. 7, 2009). It is therefore timely filed. 28 U.S.C.A. § 2255(f)(1); Clay v. (Continued)

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

United States, 537 U.S. 522, 527 (2003). Holmes fails, however, to state a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85.