

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7363

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PHILLIP LAMONT DRAKE,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. Terry L. Wooten, Chief District Judge. (4:09-cr-00950-TLW-3; 4:12-cv-03659-TLW)

Submitted: January 22, 2015

Decided: January 26, 2015

Before SHEDD, KEENAN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Phillip Lamont Drake, Appellant Pro Se. Carrie Fisher Sherard, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Phillip Lamont Drake seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2012) motion, and has filed motions for appointment of counsel, to place his appeal in abeyance, and for leave to file a supplemental informal brief. The district court's order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (2012). 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) (2012). 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 Drake has not made the requisite showing. Accordingly, we grant Drake's motion for leave to file a supplemental informal

brief, deny as moot his motion to place his appeal in abeyance, deny his motion for appointment of counsel, 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