

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-6645**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

HERBERT SAMUEL CHRISTENSEN, JR.,

Defendant - Appellant.

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Appeal from the United States District Court for the District of  
South Carolina, at Florence. C. Weston Houck, District Judge.  
(CR-98-238, CA-00-1116-4-12)

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Submitted: June 19, 2003

Decided: June 26, 2003

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Before NIEMEYER, KING, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Herbert Samuel Christensen, Jr., Appellant Pro Se. Alfred William  
Walker Bethea, Assistant United States Attorney, Florence, South  
Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Herbert Samuel Christensen, Jr., seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2000) motion. An appeal may not be taken to this court from the final order in a proceeding under § 2255 unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000); see Miller-El v. Cockrell, 123 S. Ct. 1029 (2003). As to claims dismissed by a district court solely on procedural grounds, a certificate of appealability will not issue unless the movant can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 534 U.S. 941 (2001). We have independently reviewed the record and conclude that Christensen has not satisfied either standard. 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 the court and argument would not aid the decisional process.

DISMISSED