

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7330

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LLOYD GEORGE MAXWELL,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Albert V. Bryan, Jr., Senior District Judge. (1:93-cr-00262-1)

Submitted: July 14, 2010

Decided: August 5, 2010

Before SHEDD and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Lloyd George Maxwell, Appellant Pro Se. James L. Trump, Assistant United States Attorney, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lloyd George Maxwell seeks to appeal the district court's orders denying his motions in his 28 U.S.C.A. § 2255 (West Supp. 2010) proceedings to amend his Fed. R. Civ. P. 60(b) motion, and for reconsideration. The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (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 Maxwell has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We further deny Maxwell's motion to dismiss his original indictment and his "Nunc Pro Tunc Fed. R. Civ. P. 15(c)(2) Supplemental

Motion for Recall of Mandate to Amend his Rule 33 Motion and Informal Brief." 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