

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-7541**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LOUIS ANDREW GUARASCIO,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Fox, Senior District Judge. (5:04-cr-00045-F-2; 5:08-cv-00144-F)

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Submitted: August 19, 2010

Decided: August 26, 2010

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Before MOTZ, GREGORY, and AGEE, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Louis Andrew Guarascio, Appellant Pro Se. Jennifer P. May-Parker, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Louis Andrew Guarascio seeks to appeal the district court's orders denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2010) motion and denying his Fed. R. Civ. P. 59(e) motion. These 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). 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 Guarascio has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny Guarascio's motions for appointment of counsel, for a transcript at government expense, and Guarascio's

amended motion to amend his informal brief. We deny as moot Guarascio's motion to withdraw the amended motion.

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