

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 10-6971**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LAWRENCE MCARTHUR WEBB, a/k/a Ted Paige,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Glen E. Conrad, District Judge. (7:06-cr-00079-gec-mfu-2; 7:10-cv-80252-gec-mfu)

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Submitted: September 21, 2010

Decided: October 6, 2010

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Before KING and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Lawrence McArthur Webb, Appellant Pro Se. Donald Ray Wolthuis, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lawrence McArthur Webb seeks to appeal the district court's order dismissing as untimely his 28 U.S.C.A. § 2255 (West Supp. 2010) motion. The order is 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 Webb has not made the requisite showing.\*

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\* Although we agree with Webb that the district court's procedural ruling that his § 2255 motion was untimely is erroneous, our careful review of the record leaves us with no doubt that, on its merits, Webb's motion fails to state a debatable claim of the denial of a constitutional right. We accordingly deny a certificate of appealability on this basis.

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