

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-7693

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERNEST LEE ROGERS, JR.,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Spartanburg. Margaret B. Seymour, District Judge. (7:02-cr-00325-MBS-2; 7:04-cv-00254-MBS)

Submitted: July 28, 2011

Decided: August 1, 2011

Before SHEDD, AGEE, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Ernest Lee Rogers, Jr., Appellant Pro Se. Alan Lance Crick, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ernest Lee Rogers, Jr., seeks to appeal the district court's order denying motions he filed on September 28, 2010, in his 28 U.S.C.A. § 2255 (West Supp. 2011) proceedings seeking to dismiss the indictment, or inspect the list of grand juror names and to dismiss for selective prosecution or, in the alternative, convene a federal grand jury and disclose grand jury transcripts. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (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 Rogers has not made the requisite showing. 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