

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6213

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LATCHMIE NARAYAN TOOLASPRASHAD,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Fayetteville. Terrence W. Boyle, District Judge. (3:85-cr-00045-BO-1)

Submitted: May 19, 2011

Decided: May 24, 2011

Before TRAXLER, Chief Judge, and AGEE and KEENAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Latchmie Narayan Toolasprashad, Appellant Pro Se. William Ellis Boyle, Joshua Bryan Royster, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Latchmie Narayan Toolasprashad seeks to appeal the district court's order denying relief on his motion seeking his direct appeal rights which the court properly construed as a 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 Toolasprashad has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We grant Toolasprashad's motion to seal two

exhibits to his informal brief. We deny his motions to recuse and for appointment of counsel. 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