

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-7029

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DON EDDLON KNOX, a/k/a D,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, Senior District Judge. (3:97-cr-00262-REP-11; 3:11-cv-00440-REP)

Submitted: December 20, 2011

Decided: December 23, 2011

Before MOTZ, DUNCAN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Don Eddlon Knox, Appellant Pro Se. James Brien Comey, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia; John Staige Davis, V, WILLIAMS MULLEN, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Don Eddlon Knox seeks to appeal the district court's order construing in part his "Motion for Relief Pursuant to 18 U.S.C. § 3582[,] 28 U.S.C. §§ 1651, 2201, 2202 and Appendix," as a successive 28 U.S.C.A. § 2255 (West Supp. 2011) motion. 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 Knox 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

* To the extent Knox appeals the district court's denial of his motions pursuant to 18 U.S.C. § 3582(c)(2) (2006) and 28 U.S.C. §§ 1651, 2201, 2201 (2006), we find no reversible error and affirm for the reasons stated by the district court.