

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 11-7428**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARCUS ANDREW WATKINS, a/k/a Andrew Sparkz,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of Virginia, at Abingdon. James P. Jones, District Judge. (1:08-cr-00024-JPJ-PMS-3; 1:11-cv-80358-JPJ)

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Submitted: December 15, 2011

Decided: December 20, 2011

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Before GREGORY, SHEDD, and DAVIS, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Marcus Andrew Watkins, Appellant Pro Se. Zachery T. Lee, Assistant United States Attorney, Abingdon, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marcus Andrew Watkins seeks to appeal the district court's order dismissing his 28 U.S.C.A. § 2255 (West Supp. 2011) motion without prejudice as premature. 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 Watkins has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny Watkins' motion to vacate the district court's order, 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