

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-6686

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARJIL LEE BERGARA, a/k/a Michael Bergara, a/k/a Michael
Begera,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of Virginia, at Abingdon. James P. Jones, District
Judge. (1:05-cr-00053-JPJ-1; 1:12-cv-80429-JPJ-RSB)

Submitted: July 19, 2012

Decided: July 26, 2012

Before DUNCAN, AGEE, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Marjil Lee Bergara, Appellant Pro Se. Steven Randall Ramseyer,
Assistant United States Attorney, Abingdon, Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marjil Lee Bergara seeks to appeal the district court's order treating his self-styled motions for judicial notice and a writ of error coram nobis together as a successive 28 U.S.C.A. § 2255 (West Supp. 2012) motion, and dismissing it on that basis. 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 Bergara 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