

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-8158

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES STEVEN LESANE,

Defendant - Appellant.

No. 13-7114

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES STEVEN LESANE,

Defendant - Appellant.

Appeals from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, Senior District Judge. (3:08-cr-00185-REP-1; 3:10-cv-00109-REP)

Submitted: September 12, 2013

Decided: October 9, 2013

Before WILKINSON and FLOYD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

No. 12-8158 dismissed in part; affirmed in part; No. 13-7114 dismissed by unpublished per curiam opinion.

James Steven Lesane, Appellant Pro Se. Elizabeth Wu, Assistant United States Attorney, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In Case No. 12-8158, James Steven Lesane seeks to appeal the district court's order denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2013) motion, and, in Case No. 13-7114, Lesane seeks to appeal the district court's order denying his motion for a certificate of appealability and his motion to alter or amend the district court's judgment denying his § 2255 motion. See Fed. R. Civ. P. 59(e).

These orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (2006); Reid v. Angelone, 369 F.3d 363, 369 (4th Cir. 2004). 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 Lesane has not made the requisite showing. Accordingly, we deny certificates of appealability and dismiss the appeals of the orders denying Lesane's § 2255 motion, Rule 59(e) motion, and motion for a certificate of appealability.

In Case No. 12-8158, Lesane also seeks to appeal the district court's order denying his second Fed. R. Crim. P. 33 motion. We have reviewed the record and find no reversible error. Accordingly, we affirm the order denying Lesane's second Rule 33 motion for the reasons stated by the district court. United States v. Lesane, Nos. 3:08-cr-00185-REP-1; 3:10-cv-00109-REP (E.D. Va. Dec. 13, 2012).

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

No. 12-8158 DISMISSED IN PART;
AFFIRMED IN PART
No. 13-7114 DISMISSED