

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6588

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HENDERSON L. HINTON,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Elizabeth City. Terrence W. Boyle, District Judge. (2:06-cr-00015-BO-1; 2:11-cv-00016-BO)

Submitted: July 18, 2013

Decided: July 23, 2013

Before WILKINSON, MOTZ, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Henderson L. Hinton, Appellant Pro Se. Rudolf A. Renfer, Jr., Assistant United States Attorney, Michael Gordon James, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Henderson Hinton seeks to appeal the district court's orders denying relief on his Fed. R. Civ. P. 15(c) motion to amend his 28 U.S.C.A. § 2255 (West Supp. 2013) motion, and denying his Fed. R. Civ. P. 60(b)(6) motion. Because Hinton's motions did not directly attack his conviction or sentence, but rather sought to correct an alleged defect in the collateral review process itself, they constituted true Rule 15(c) and Rule 60(b)(6) motions under United States v. Winestock, 340 F.3d 200, 207 (4th Cir. 2003). To appeal the orders, however, Hinton must establish entitlement to a certificate of appealability. See Reid v. Angelone, 369 F.3d 363, 368 (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 Hinton 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 this court and argument would not aid the decisional process.

DISMISSED