

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6957

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL CASSANOVA DYSON,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Wheeling. Frederick P. Stamp, Jr., Senior District Judge. (5:09-cr-00021-FPS-JES-6; 5:11-cv-00017-FPS-JES)

Submitted: October 17, 2013

Decided: October 21, 2013

Before AGEE, DAVIS, and KEENAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael Cassanova Dyson, Appellant Pro Se. John Castle Parr, Assistant United States Attorney, Wheeling, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael Cassanova Dyson seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on Dyson's 28 U.S.C.A. § 2255 (West Supp. 2013) 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.

Dyson has failed to address the district court's reasons for denying his motion in his informal brief.*

* The sole issue raised on appeal is a claim for relief under Alleyne v. United States, ___ U.S. ___, 133 S. Ct. 2151 (2013) (holding that any fact that increases the statutory (Continued)

Therefore, Dyson has forfeited appellate review of the district court's rulings. See 4th Cir. R. 34(b). 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

mandatory minimum is an element of the offense and must be submitted to the jury and found beyond a reasonable doubt). Alleyne is inapposite here, though, because the court did not make a factual determination that increased Dyson's statutory mandatory minimum.