

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7014

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENNETH LOUIS DAVIS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (1:02-cr-00552-LMB-1; 1:12-cv-00890-LMB)

Submitted: October 17, 2013

Decided: October 21, 2013

Before AGEE, DAVIS, and KEENAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Kenneth Louis Davis, Appellant Pro Se. Patrick Friel Stokes, U.S. DEPARTMENT OF JUSTICE, Washington, DC, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenneth Louis Davis appeals the district court's order denying his motion to amend his 28 U.S.C.A. § 2255 (West Supp. 2013) motion and denying his motion to reconsider the district court's order denying his motion to correct a clerical error under Fed. R. Crim. P. 36. 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 Davis 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