

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7329

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WILLIAM KELVIN MCCOLLUM,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. W. Earl Britt, Senior District Judge. (7:01-cr-00136-BR-1; 7:11-cv-00240-BR)

Submitted: January 14, 2015

Decided: January 28, 2015

Before GREGORY, SHEDD, and FLOYD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Edwin L. West, III, BROOKS, PIERCE, MCLENDON, HUMPHREY & LEONARD, LLP, Wilmington, North Carolina, for Appellant. Jennifer P. May-Parker, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

William Kelvin McCollum seeks to appeal the district court's order denying as untimely his 28 U.S.C. § 2255 (2012) 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) (2012). 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) (2012). 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 McCollum has not made the requisite showing. See United States v. Whiteside, __ F.3d __, 2014 WL 7245453 (4th Cir. 2014) (en banc). Accordingly, we deny a certificate of appealability, deny McCollum's motion to file a formal brief, 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