

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 13-7790**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TIMMY ALLEN RICE, a/k/a Timothy A. Rice,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Spartanburg. G. Ross Anderson, Jr., Senior District Judge. (7:90-cr-00310-GRA-4; 7:13-cv-02056-GRA)

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Submitted: March 28, 2014

Decided: April 10, 2014

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Before NIEMEYER, WYNN, and FLOYD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Timmy Allen Rice, Appellant Pro Se. David Calhoun Stephens, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Timmy Allen Rice seeks to appeal the district court's order dismissing 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 procedural grounds, as in this case, a prisoner satisfies this standard by demonstrating both that the dispositive procedural ruling is debatable and that the motion states a debatable claim of the denial of a constitutional right. Slack v. McDaniel, 529 U.S. 473, 484-85 (2000).

We have independently reviewed the record and conclude that Rice has not made the requisite showing. The district court lacked jurisdiction to consider Rice's motion to vacate because it was a successive and unauthorized § 2255 motion. In the absence of pre-filing authorization from this court, the district court lacks jurisdiction to hear a successive § 2255 motion. See 28 U.S.C. § 2244(b)(3).

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