UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7537

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSHUA MICHAEL COGDELL,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Joseph F. Anderson, Jr., Senior District Judge. (3:07-cr-01521-JFA-2; 3:14-cv-02020-JFA)

Submitted: July 28, 2016 Decided: August 16, 2016

Before KING, SHEDD, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Joshua Michael Cogdell, Appellant Pro Se. Robert Frank Daley, Jr., Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joshua Michael Cogdell seeks to appeal the district court's July 29, 2015 order dismissing his 28 U.S.C. § 2255 (2012) motion as time-barred and the court's August 10, 2015 order construing his motion to amend as a successive § 2255 motion and dismissing it as unauthorized. These orders are 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.

With regard to the July 29 order, we have independently reviewed the record and conclude that Cogdell has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the portion of the appeal related to

that order. As to the August 10 order, we recently granted Cogdell's motion to file a successive § 2255 motion asserting his claim based on Johnson v. United States, 135 S. Ct. 2551 (2015) (declaring residual clause of Armed Career Criminal Act unconstitutionally vague). See In re Cogdell, No. 16-358 (4th Cir. June 21, 2016) (unpublished order). Accordingly, we deny a certificate of appealability and dismiss the portion of the appeal related to that order as moot.

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