

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 15-7918**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID M. KISSI,

Defendant - Appellant.

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Appeal from the United States District Court for the District of Maryland, at Greenbelt. Catherine C. Blake, Chief District Judge. (8:05-cr-00254-PWG-1; 8:12-cv-01944-AW)

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Submitted: May 18, 2016

Decided: May 20, 2016

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Before SHEDD, DIAZ, and HARRIS, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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David M. Kissi, Appellant Pro Se. Kristi Noel O'Malley, OFFICE OF THE UNITED STATES ATTORNEY, Greenbelt, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David M. Kissi seeks to appeal the district court's order denying motion to reopen his closed 28 U.S.C. § 2255 (2012) proceeding. 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 Kissi has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny Kissi's motion to appoint counsel, and dismiss the appeal. We also deny Kissi's motion to waive the prefiling injunction as it does not apply to this proceeding. 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