

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6229

UNITED STATES OF AMERICA,

Plaintiff - Appellant,

v.

JERMAINE LAMONT WOOD,

Defendant - Appellant.

No. 16-6626

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JERMAINE LAMONT WOOD,

Defendant - Appellant.

Appeals from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, Senior District Judge. (3:99-cr-00144-JRS-1; 3:14-cv-00455-JRS)

Submitted: September 29, 2016 Decided: October 3, 2016

Before SHEDD, KEENAN, and HARRIS, Circuit Judges.

Dismissed in part; affirmed in part by unpublished per curiam opinion.

Jermaine Lamont Wood, Appellant Pro Se. Peter Sinclair Duffey, Assistant United States Attorney, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In Appeal No. 16-6229, Jermaine Wood seeks to appeal the district court's order construing his motion to amend as an unauthorized successive 28 U.S.C. § 2255 (2012) motion and dismissing it on that basis, and a subsequent order denying reconsideration. The 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.

We have independently reviewed the record and conclude that Wood has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal.

In Appeal No. 16-6626, Wood appeals the district court's order construing his Fed. R. Civ. P. 60(b) motion as another successive § 2255 motion. We affirm this order for reasons stated by the district court. United States v. Wood, Nos. 3:99-cr-00144-JRS-1; 3:14-cv-00455-JRS (E.D. Va. Mar. 15, 2016). See United States v. McRae, 793 F.3d 392 (4th Cir. 2015) (holding movant need not obtain certificate of appealability to appeal dismissal of Rule 60(b) motion construed as successive habeas motion). We grant Wood's motion to seal his informal brief. 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 IN PART; AFFIRMED IN PART