

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-6044

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RANDOLF MOORE, a/k/a Randy, a/k/a Booney,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Greenville. Malcolm J. Howard, Senior District Judge. (4:95-cr-00041-H-7)

Submitted: May 5, 2022

Decided: May 13, 2022

Before GREGORY, Chief Judge, and NIEMEYER and DIAZ, Circuit Judges.

Dismissed in part and affirmed in part by unpublished per curiam opinion.

Randolf Moore, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Randolf Moore seeks to appeal the district court's order denying his post-judgment motions for discovery in his closed criminal case and his Fed. R. Civ. P. 60(b) motion for relief from the district court's prior order denying relief on his 28 U.S.C. § 2255 motion. He has also moved for a certificate of appealability and for appointment of counsel.

The district court's denial of Moore's Rule 60(b) motion is not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1)(B); *United States v. McRae*, 793 F.3d 392, 400 & n.7 (4th Cir. 2015). 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). When the district court denies relief on the merits, a prisoner satisfies this standard by showing that reasonable jurists could find the district court's assessment of the constitutional claims debatable or wrong. *See Buck v. Davis*, 137 S. Ct. 759, 773-74 (2017). 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. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Moore has not made the requisite showing. Accordingly, we deny his motion for a certificate of appealability and appointment of counsel, and we dismiss the appeal in part. As for Moore's appeal of the district court's denial of his post-judgment motions for discovery, we have reviewed the record and find no reversible error. We therefore affirm the district court's denial. *See United States v. Moore*, No. 4:95-cr-00041-H-7 (E.D.N.C. Dec. 18, 2020). 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*