

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-6927

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STEVEN WOOTEN, a/k/a Steady,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Greenville. Louise W. Flanagan, District Judge. (4:18-cr-00052-FL-1; 4:22-cv-00073-FL)

Submitted: January 29, 2024

Decided: February 7, 2024

Before NIEMEYER and WYNN, Circuit Judges, and KEENAN, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Steven Wooten, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Steven Wooten seeks to appeal the district court's orders dismissing as untimely his 28 U.S.C. § 2255 motion and dismissing his motion for reconsideration as an unauthorized second or successive § 2255 motion. *See Whiteside v. United States*, 775 F.3d 180, 182-83 (4th Cir. 2014) (en banc) (explaining that § 2255 motions are subject to one-year statute of limitations, running from latest of four commencement dates enumerated in 28 U.S.C. § 2255(f)). The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B). 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, as here, 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 Wooten has not made the requisite showing. 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

* Because Wooten's motion for reconsideration was properly filed under Fed. R. Civ. P. 59(e), the district court erred in dismissing that motion as an unauthorized second or successive § 2255 motion. However, the court's initial determination that Wooten's § 2255 motion was untimely is not debatable. Therefore, the court's error is harmless.