

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-7030

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MALIEK KEARNEY,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore.
George L. Russell, III, District Judge. (1:16-cr-00486-GLR-1; 1:21-cv-03149-GLR)

Submitted: January 30, 2024

Decided: February 6, 2024

Before KING, AGEE, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Maliek Kearney, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Maliek Kearney seeks to appeal the district court's orders denying relief on his 28 U.S.C. § 2255 motion and denying reconsideration.* The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 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 the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists could find the district court's assessment of the constitutional claims debatable or wrong. *See Buck v. Davis*, 580 U.S. 100, 115-17 (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)).

Limiting our review of the record to the issues raised in Kearney's informal brief, we conclude that Kearney has not made the requisite showing. *See* 4th Cir. R. 34(b); *Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014) ("The informal brief is an important document; under Fourth Circuit rules, our review is limited to issues preserved in that brief."). Accordingly, we deny Kearney's motion for preparation of the record on appeal, deny a certificate of appealability, and dismiss the appeal. We dispense with oral argument

* Although the district court improperly construed Kearney's timely Fed. R. Civ. P. 59(e) motion as an unauthorized, successive § 2255 motion, *see Banister v. Davis*, 140 S. Ct. 1698, 1702 (2020), this error does not affect the resolution of this appeal.

because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED