

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

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**No. 18-7380**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENNETH ROSHAUN REID,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Cameron McGowan Currie, Senior District Judge. (0:04-cr-00353-CMC-1)

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Submitted: January 22, 2019

Decided: January 25, 2019

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Before MOTZ, KEENAN, and FLOYD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Kenneth Roshaun Reid, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

Kenneth Roshaun Reid seeks to appeal the district court's order denying his Fed. R. Civ. P. 59(e) motion seeking to alter or amend its prior order denying his 28 U.S.C. § 2255 (2012) motion.\*

The district court's 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 Reid 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

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\* The district court previously denied Reid's motion seeking correction of his sentence. This court determined that Reid's motion was a 28 U.S.C. § 2255 motion the district court should have construed as successive and which it lacked jurisdiction to hear. *United States v. Reid*, \_\_\_ F. App'x \_\_\_, No. 18-7248, 2018 WL 6721255 (4th Cir. Dec. 21, 2018).

adequately presented in the materials before this court and argument would not aid the decisional process.

*DISMISSED*

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

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**No. 18-7248**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENNETH ROSHAUN REID,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Cameron McGowan Currie, Senior District Judge. (0:04-cr-00353-CMC-1)

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Submitted: December 18, 2018

Decided: December 21, 2018

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Before AGEE, THACKER, and HARRIS, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Kenneth Roshaun Reid, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenneth Roshaun Reid seeks to appeal the district court's order denying his motion seeking correction of his sentence. We conclude that Reid's motion was in substance a successive 28 U.S.C. § 2255 (2012) motion.

The district court's 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.

Reid's motion challenged the validity of his sentence and should have been construed as a successive § 2255 motion.\* See *Gonzalez v. Crosby*, 545 U.S. 524, 531-32 (2005); *United States v. Winestock*, 340 F.3d 200, 207 (4th Cir. 2003). In the absence of

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\* The district court denied relief on Reid's prior § 2255 motion on the merits in 2010.

pre-filing authorization from this court, the district court lacked jurisdiction to hear Reid's successive § 2255 motion. *See* 28 U.S.C. § 2244(b)(3) (2012).

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*