

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6954

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE JULIO MORBAN-LOPEZ, a/k/a Jose Julio Morvan, a/k/a Sld Dft
3:99CR109-3, a/k/a Jose Julio Morban, a/k/a Carlos Enrique Cepan,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina,
at Charlotte. Graham C. Mullen, Senior District Judge. (3:99-cr-00109-GCM-3; 3:17-
cv-00237-GCM)

Submitted: November 16, 2017

Decided: November 21, 2017

Before GREGORY, Chief Judge, and TRAXLER and KEENAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jose Julio Morban-Lopez, Appellant Pro Se. Amy Elizabeth Ray, Assistant United States
Attorney, Asheville, North Carolina; Thomas A. O'Malley, Kevin Zolot, OFFICE OF
THE UNITED STATES ATTORNEY, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jose Julio Morban-Lopez seeks to appeal the district court's order dismissing as untimely his 28 U.S.C. § 2255 (2012) motion. The 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 Morban-Lopez 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