

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-7524

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTHONY GENE TRAPPIER,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. Terry L. Wooten, Chief District Judge. (4:09-cr-00340-TLW-1)

Submitted: February 22, 2018

Decided: February 27, 2018

Before TRAXLER and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Anthony Gene Trappier, Appellant Pro Se. Robert Frank Daley, Jr., Susan Zalkin Hitt, Assistant United States Attorneys, Columbia, South Carolina; Arthur Bradley Parham, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Florence, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Anthony Gene Trappier seeks to appeal the district court's order denying his Fed. R. Civ. P. 60(b) motions for reconsideration of the court's prior order denying relief on his 28 U.S.C. § 2255 (2012) motion. The orders are 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 Trappier has not made the requisite showing. Accordingly, we deny a certificate of appealability and

* The district court determined that Trappier's motions were successive and unauthorized § 2255 motions and, to the extent the motions were true Rule 60(b) motions, that Trappier was not entitled to relief. Although we agree with Trappier that his motions were better construed as true Rule 60(b) motions, we agree with the district court's alternative holding. Trappier thus must establish the grounds necessary for a certificate of appealability. Cf. *United States v. McRae*, 793 F.3d 392, 400 (4th Cir. 2015) (holding that no certificate of appealability is required when a Rule 60(b) motion is dismissed as successive because "[n]o one can say right now whether McRae's habeas proceeding was with merit or without based on the district court's dismissal").

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