

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6930

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL RAY SHIFFLETT,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, Senior District Judge. (CA-99-822-7)

Submitted: November 30, 2005

Decided: January 4, 2006

Before WILLIAMS, MOTZ, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael Ray Shifflett, Appellant Pro Se. Jennie M. Waering, OFFICE OF THE UNITED STATES ATTORNEY, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Michael Ray Shifflett seeks to appeal from the district court's order denying relief on his motion filed under 28 U.S.C. § 2255 (2000).^{*} Shifflett also sought to have the validity of his sentence reviewed in light of the Supreme Court's recent decisions in Blakely v. Washington, 542 U.S. 296 (2004), and United States v. Booker, 125 S. Ct. 738 (2005). We have recently held that the rulings in these cases are not available on collateral review to prisoners whose convictions became final before Booker was decided. See United States v. Morris, 429 F.3d 65 (4th Cir. 2005).

The district court's order denying relief is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). 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) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of his constitutional claims is debatable or wrong and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001).

^{*}Shifflett filed a motion to dismiss his appeal and later filed an objection to dismissal of his appeal. In light of his objection, we deny the motion to dismiss.

We have granted Shifflett's motion to file a supplemental brief and have independently reviewed the record, the appeal briefs, and the Fed. R. App. P. 28(j) materials submitted by Shifflett and conclude that Shifflett has not made the requisite showing. Accordingly, we deny Shifflett's motion for appointment of counsel, 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 the court and argument would not aid the decisional process.

DISMISSED