UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 08-6283

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UNITED STATES OF AMERICA,

        Plaintiff - Appellee,

    v.

XAVIER BAHENA,

        Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Durham. James A. Beaty, Jr., Chief District Judge. (1:05-cr-00054-JAB-J-3; 1:07-cv-00342-JAB-RAE)

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Submitted: June 26, 2008   Decided: July 2, 2008

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Before KING and DUNCAN, Circuit Judges, and WILKINS, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Xavier Bahena, Appellant Pro Se. Randall Stuart Galyon, OFFICE OF THE UNITED STATES ATTORNEY, Angela Hewlett Miller, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

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PER CURIAM:

Xavier Bahena seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2255 (2000) motion. The order 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 any assessment of the constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. 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). We have independently reviewed the record and conclude that Bahena 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 the court and argument would not aid the decisional process.

DISMISSED