

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6859

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WILLIE JUNIOR MCCAIN,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Jackson L. Kiser, Senior
District Judge. (4:05-cr-00011-jlk-1; 7:07-cv-00301-jlk-mfu)

Submitted: October 22, 2008

Decided: November 5, 2008

Before MOTZ, SHEDD, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Willie Junior McCain, Appellant Pro Se. Charlene Day, OFFICE OF
THE UNITED STATES ATTORNEY, Julie C. Dudley, Assistant United
States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Willie Junior McCain 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 McCain 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