UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6488

UNITED STATES OF AMERICA,

              Plaintiff - Appellee,

       v.

THEODORE THOMAS WAGNER,

              Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia.   G. Ross Anderson, Jr., Senior District Judge.   (3:08-cv-03235-GRA)

Submitted: June 18, 2009   Decided: June 25, 2009

Before NIEMEYER, GREGORY, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Theodore Thomas Wagner, Appellant Pro Se.

PER CURIAM:

Theodore Thomas Wagner seeks to appeal the district court's order accepting the recommendation of the magistrate judge to dismiss the action without prejudice and dismissing his 28 U.S.C.A. § 2255 (West Supp. 2009) motion as successive. Wagner also seeks to appeal the district court's order denying his subsequent Fed. R. Civ. P. 59(e) motion for reconsideration. The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006). 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) (2006). 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 Wagner has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny Wagner's "petition for pre-enforcement review." 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.

<div align="right">DISMISSED</div>