UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6210

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

PATRICK DEVONE WALKER,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Richard L. Voorhees, Chief District Judge. (3:95-cr-00005-10; 3:98-cv-00140)

Submitted: June 22, 2006 Decided: June 29, 2006

Before NIEMEYER, MICHAEL, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Patrick Devone Walker, Appellant Pro Se. Gretchen C. F. Shappert, United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Patrick Devone Walker seeks to appeal the district court's order construing his Fed. R. Civ. P. 52(b) motion as a 28 U.S.C. § 2255 (2000) motion, and denying it as a successive motion for which authorization had not been granted. 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 Walker has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, 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