UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6838

LARRY ARNOLD YOUNG,

Plaintiff - Appellant,

versus

UNITED STATES OF AMERICA,

Defendant - Appellee.

Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. David A. Faber, Chief District Judge. (1:88-cr-00112; 1:04-cv-1282)

Submitted: August 31, 2006 Decided: September 8, 2006

Before MICHAEL, MOTZ, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Larry Arnold Young, Appellant Pro Se. Michael Lee Keller, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Larry Arnold Young seeks to appeal from the district court's order construing his motion for modification of his sentence as a motion under 28 U.S.C. § 2255 (2000), and denying relief because this was a successive motion for which authorization had not been obtained. We find that the district court properly construed the motion as one under § 2255. See Raines v. United States, 423 F.2d 526, 528 & n.1 (4th Cir. 1970); see also Gonzalez v. Crosby, 125 S. Ct. 2641, 2647 (2005) (where a motion is "in substance a successive habeas petition," it "should be treated accordingly").

Because Young's motion was properly construed as a § 2255 motion, the order denying the motion is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000); Jones v. Braxton, 392 F.3d 683 (4th Cir. 2004). 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 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 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001).

We have independently reviewed the record and conclude that Young 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