

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7036

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TROY LAMAR MORTON,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Graham C. Mullen, Senior District Judge. (3:02-cr-00242-5)

Submitted: December 21, 2006

Decided: January 3, 2007

Before NIEMEYER, WILLIAMS, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Troy Lamar Morton, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Troy L. Morton seeks to appeal the district court's orders denying relief on his purported "Motion Requesting a Certificate of Appealability," which the district court construed as a 28 U.S.C. § 2255 (2000) motion,* and his motion for reconsideration of that order. Neither order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000); Reid v. Angelone, 369 F.3d 363, 369 (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 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 Morton 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

*This was Morton's third § 2255 motion. Previously, we denied Morton authorization to file a second or successive § 2255 motion. See United States v. Morton, No. 05-7887, 167 F. App'x 970 (4th Cir. 2006) (unpublished).

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED