

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7297

LINWOOD DOUGLAS THORNE,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA,

Respondent - Appellee.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Deborah K. Chasanow, District Judge. (8:94-cr-00453-DKC; 06-1022-DKC)

Submitted: December 4, 2006

Decided: December 21, 2006

Before WILKINSON, TRAXLER, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Linwood Douglas Thorne, Appellant Pro Se. Stephen S. Zimmermann, OFFICE OF THE UNITED STATES ATTORNEY, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Linwood Douglas Thorne appeals the district court's order construing his motion for sentence review under 18 U.S.C. § 3742 (West 2000 & Supp. 2006) as a motion for relief under 28 U.S.C. § 2255 (2000), and subsequently dismissing the § 2255 motion without prejudice for lack of jurisdiction because it was successive and unauthorized. 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 the district court's assessment of his constitutional claims and any dispositive rulings are 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 Thorne 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

*To the extent that Thorne's informal brief filed in this court can be construed as a request for this court's permission to file a successive § 2255 motion under 28 U.S.C. § 2244(b), we deny it.

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

DISMISSED