

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7305

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RONALD LEE BROOKINS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (2:02-cr-00153-RAJ; 2:06-cv-00143-RAJ)

Submitted: December 21, 2006

Decided: January 3, 2007

Before NIEMEYER, WILLIAMS and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Ronald Lee Brookins, Appellant Pro Se. Sherrie Scott Capotosto, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ronald Lee Brookins seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2000) motion. 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 Brookins has not made the requisite showing. Although Brookins' § 2255 motion was timely, see Clay v. United States, 537 U.S. 522, 532 (2003), we nevertheless find that he has failed to make the requisite showing for a certificate of appealability to issue. See United States v. Morris, 429 F.3d 65, 69-72 (4th Cir. 2005), cert. denied, ___ U.S. ___, 75 U.S.L.W. 3167 (Oct. 2, 2006) (No. 05-11378) (holding that decision in United States v. Booker, 543 U.S. 220 (2005) is not retroactively applicable to cases on collateral review). 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