

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7594

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

IVEY WALKER,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Lacy H. Thornburg, District Judge. (3:97-cr-00022-9)

Submitted: December 14, 2007

Decided: January 11, 2008

Before MICHAEL, MOTZ, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Andrew Brady Banzhoff, Asheville, North Carolina, for Appellant. Amy Elizabeth Ray, OFFICE OF THE UNITED STATES ATTORNEY, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ivey Walker seeks to appeal the district court's order denying relief in part 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).

Walker has filed a motion for a certificate of appealability on the issue of whether trial counsel labored under an actual conflict of interest in violation of his Sixth Amendment rights. Based on our independent review of the record, we conclude that Walker has not made the requisite showing of the denial of a constitutional right. Accordingly, we deny his motion for a certificate of appealability and dismiss the appeal.* We dispense with oral argument because the facts and legal contentions are

*We note that the district court granted § 2255 relief in part; the Government's appeal of that decision in No. 06-7582 remains pending before the court.

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

DISMISSED