

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7841

UNITED STATES OF AMERICA,

Petitioner - Appellee,

versus

MICHAEL CURTIS,

Respondent - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Joseph Robert Goodwin, District Judge. (2:89-00054-1; 2:05-cv-00949)

Submitted: June 21, 2007

Decided: June 26, 2007

Before NIEMEYER, WILLIAMS, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael Curtis, Appellant Pro Se. Charles T. Miller, United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael Curtis seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying as successive his motion filed under 28 U.S.C. § 2255 (2000). 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 is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. See 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 Curtis has not made the requisite showing. Accordingly, we deny Curtis' motion to hold his case in abeyance as moot, and 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