

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6362

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LEWIS THOMAS CORNELL,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. William L. Osteen, Senior District Judge. (1:00-cr-00204-WLO; 1:06-cv-00916-WLO)

Submitted: May 31, 2007

Decided: June 8, 2007

Before WILKINSON, TRAXLER, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Lewis Thomas Cornell, Appellant Pro Se. Angela Hewitt Miller, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lewis Thomas Cornell seeks to appeal the district court's order accepting the recommendation of the magistrate judge, construing Cornell's motion for reduction of sentence under 18 U.S.C.A. § 3582(c) (West 2000 & Supp. 2007), as a successive 28 U.S.C. § 2255 (2000) motion, and dismissing it for lack of jurisdiction. 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 Cornell 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 contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED