

Filed: September 20, 2007

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

No. 07-6794
(2:06-cr-00979-DCN; 3:05-cv-02723-MBS)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

SHAWN SIMMONS,

Defendant - Appellant.

O R D E R

The court amends its opinion filed September 17, 2007, as follows:

On the cover sheet, in the caption and in the attorney data section, and on page 2, line 1 of text, the appellant's name is corrected to read "Shawn Simmons."

For the Court - By Direction

/s/ Patricia S. Connor
Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6794

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

SHAWN SIMMONS,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Margaret B. Seymour, District Judge. (2:06-cr-00979-DCN; 3:05-cv-02723-MBS)

Submitted: September 11, 2007 Decided: September 17, 2007

Before WILKINSON, MOTZ, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Shawn Simmons, Appellant Pro Se. Leesa Washington, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Shawn Simmons 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 his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also 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 Simmons 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