

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6983

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LYDELL ROGERS,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. William D. Quarles, Jr., District Judge. (1:05-cr-00153-WDQ; 1:07-cv-00631-WDQ)

Submitted: February 28, 2008

Decided: March 3, 2008

Before WILKINSON, NIEMEYER, and MICHAEL, Circuit Judges.

Affirmed in part; dismissed in part by unpublished per curiam opinion.

Lydell Rogers, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lydell Rogers seeks to appeal the district court's orders denying relief on his motion filed pursuant to Fed. R. Civ. P. 60(b) challenging the validity of his criminal conviction, and denying his Fed. R. Civ. P. 59(e) motion for reconsideration. To the extent that the court construed Rogers' motion as one filed under 28 U.S.C. § 2255 (2000), and dismissed it without prejudice, the orders are 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 Rogers has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal in part.

To the extent the court considered Rogers' motion as a Rule 60(b) motion and denied it and denied his Rule 59(e) motion, we have reviewed the record and find no reversible error. We

therefore affirm these rulings. 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.

AFFIRMED IN PART;
DISMISSED IN PART