UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7116

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHNNY MACK BROWN,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. David A. Faber, District Judge, sitting by designation. (7:99-cv-00346-DAF)

Submitted: May 16, 2008 Decided: June 2, 2008

Before NIEMEYER and KING, Circuit Judges, and WILKINS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Johnny Mack Brown, Appellant Pro Se. Jean Barrett Hudson, Assistant United States Attorney, Charlottesville, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Johnny Mack Brown seeks to appeal the district court's order denying his Fed. R. Civ. P. 60(b) motion for reconsideration of 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); Reid v. Angelone, 369 F.3d 363, 369 (4th Cir. 2004). 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 Brown has not made the requisite showing. Accordingly, we deny leave to proceed in forma pauperis, deny a certificate of appealability, and dismiss the appeal. We dispense with oral argument because the facts and

*We note that the motion was a proper Rule 60(b) motion, not a second or successive § 2255 motion, as the district court found. See Gonzalez v. Crosby, 545 U.S. 524, 530-32 & n.4 (2005); United States v. Winestock, 340 F.3d 200, 206-07 (4th Cir. 2003).

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

DISMISSED