

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7280

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RODNEY EUGENE SMITH,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. Joseph R. Goodwin, Chief District Judge. (1:05-cv-00175)

Submitted: January 17, 2008

Decided: January 25, 2008

Before TRAXLER, SHEDD, and DUNCAN, Circuit Judges.

Affirmed in part; dismissed in part by unpublished per curiam opinion.

Rodney Eugene Smith, Appellant Pro Se. Michael Lee Keller, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Rodney Eugene Smith appeals the district court's orders accepting the magistrate judge's recommendation and ultimately denying his numerous pending motions related to his conviction and sentence. We have reviewed the record and find no reversible error with respect to the court's denial of Smith's motions for discovery requests, default judgment, to remit fine and restitution, and to treat his illness. Accordingly, while we grant leave to proceed in forma pauperis on appeal, we affirm for the reasons stated by the district court. United States v. Smith, No. 1:05-cv-00175 (S.D.W. Va. July 25, 2007; Aug. 1, 2007).

To the extent the district court dismissed the majority of motions filed by Smith as second or successive § 2255 motions, an appeal may not be taken from the final order in a § 2255 proceeding 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 Smith has not made the requisite showing. We therefore deny a certificate of appealability and dismiss as to those portions of the court's orders.*

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

*To the extent that in his informal brief Smith seeks relief from this court under 28 U.S.C. § 2106 (2000) and Fed. R. App. P. 2, we deny relief.