

Certiorari dismissed, November 3, 2008

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6035

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BERNARD GIBSON, SR.,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Peter J. Messitte, District Judge. (8:94-cr-00454-PJM-2; 8:05-cv-01437-PJM)

Submitted: February 28, 2008

Decided: March 10, 2008

Before WILKINSON, NIEMEYER, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Bernard Gibson, Sr., Appellant Pro Se. Sandra Wilkinson, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bernard Gibson, Sr., seeks to appeal the district court's order denying relief on his motion to amend his motion filed under 28 U.S.C. § 2255 (2000), and the court's order denying his motion to reconsider. The district court found that there was no pending § 2255 motion to amend and that, in any event, Gibson's motions were tantamount to a successive § 2255 motion, for which Gibson had not obtained authorization to file. 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 Gibson 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