

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8192

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KAMAL MAJEID WEBB,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Fox, Senior District Judge. (5:04-cr-00294-F-1; 5:08-cv-00154-F)

Submitted: September 1, 2009 Decided: September 17, 2009

Before MOTZ and SHEDD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed in part; affirmed in part by unpublished per curiam opinion.

Kevin Michael Schad, SCHAD & SCHAD, Lebanon, Ohio, for Appellant. Rudolf A. Renfer, Jr., Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kamal Majeid Webb appeals the district court's order granting his motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c) (2006), and seeks to appeal the district court's order denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2009) motion. As to the order granting Webb's § 3582(c) motion, we conclude the district court reduced Webb's sentence by the maximum amount permitted. Webb's request for a further reduction was thus properly denied. See United States v. Dunphy, 551 F.3d 247 (4th Cir. 2009).

As to the order denying § 2255 relief, an appeal is not permitted unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006). 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) (2006). 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 Webb has not made the requisite showing.

Accordingly, while we affirm the district court's order granting Webb's motion for a reduction of sentence pursuant to § 3582(c), we deny a certificate of appealability and dismiss the appeal as to the order denying relief on Webb's § 2255 motion. 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 IN PART;
AFFIRMED IN PART