

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8390

FELIX ORIAKHI,

Petitioner - Appellant,

v.

UNITED STATES OF AMERICA,

Respondent - Appellee.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Peter J. Messitte, Senior District Judge. (8:08-cv-00893-PJM; 1:90-cr-00072-PJM-12)

Submitted: April 16, 2009

Decided: April 24, 2009

Before WILKINSON, NIEMEYER, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Felix Oriakhi, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Felix Oriakhi seeks to appeal the district court's order construing his "Petition for Writ of Audita Querela" as a motion pursuant to 28 U.S.C. § 2255 (2000), and denying it for failure to first obtain authorization from this court to file a successive § 2255 motion. See 28 U.S.C. §§ 2244(b)(2), 2255 (2006). He also seeks to appeal the district court's order denying his Fed. R. Civ. P. 59(e) motion. 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 Oriakhi has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny Oriakhi's motion to consolidate, 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