

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8488

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHARLES LEE BRICE, a/k/a Petty Racing Fan 1, a/k/a Petty Racing Fan 2000,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (2:06-cr-00154-RAJ-TEM-1; 2:08-cv-219)

Submitted: February 19, 2009

Decided: March 12, 2009

Before NIEMEYER, TRAXLER, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Charles Lee Brice, Appellant Pro Se. Michael Calvin Moore, Assistant United States Attorney, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Charles Lee Brice seeks to appeal the district court's order denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2008) motion. The order is not appealable 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 Brice has not made the requisite showing. Accordingly, we grant Brice's motion to proceed in forma pauperis, 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