

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6650

WILLIAM HENCELY DAVIS, JR.,

Petitioner - Appellant,

v.

STATE OF NORTH CAROLINA; D.G. WOOD, Superintendent; WALLACE
W. DIXON, Magistrate Judge; FRANK W. BULLOCK, JR., Judge; N.
CARLTON TILLEY, Judge,

Respondents - Appellees.

Appeal from the United States District Court for the Middle
District of North Carolina, at Greensboro. Thomas David
Schroeder, District Judge. (1:08-cv-00706-TDS-PTS)

Submitted: January 19, 2010

Decided: January 26, 2010

Before NIEMEYER, KING, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

William Hencely Davis, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

William Hencely Davis, Jr., filed a pleading seeking both coram nobis relief from his state conviction as well as Fed. R. Civ. P. 60(b) relief on his 28 U.S.C. § 2254 (2006) petition. The district court adopted the magistrate judge's recommendation and denied relief. To the extent that Davis sought to challenge his conviction, the district court found that his pleading was a successive § 2254 petition and dismissed it on that basis. The court also found that Davis was not entitled to relief under Rule 60. Davis seeks to appeal.

The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006); Reid v. Angelone, 369 F.3d 363, 369 (4th Cir. 2004). 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 Davis has not made the requisite

showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny Davis' motions to amend or correct the caption and for appointment of counsel. 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