

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7337

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

EMMITT LENROY ELLIS, JR., a/k/a Plucka,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Gerald Bruce Lee, District Judge; Albert V. Bryan, Jr., Senior District Judge. (CR-00-295-A, CA-01-1889-AM)

Submitted: May 29, 2003

Decided: June 6, 2003

Before WILKINSON, MICHAEL, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Owaiian Maurice Jones, LAW OFFICES OF OWAIIAN M. JONES, Fredericksburg, Virginia, for Appellant. Kimberly Riley Pederson, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Emmitt Lenroy Ellis seeks to appeal the district court's order denying his 28 U.S.C. § 2255 (2000) motion. An appeal may not be taken from the final order in a motion under § 2255 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 for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). We have independently reviewed the record and conclude Ellis has not made the requisite showing. See Miller-El v. Cockrell, ____ U.S. ____, 123 S. Ct. 1029 (2003). Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny Ellis' motion for an evidentiary hearing. 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