

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7403

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MIGUEL ANGEL CHAVEZ-LOPEZ,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. James A. Beaty, Jr., District Judge. (CR-98-318, CA-02-177-1)

Submitted: November 7, 2002

Decided: November 15, 2002

Before WILKINS and LUTTIG, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Miguel Angel Chavez-Lopez, Appellant Pro Se. Angela Hewlett Miller, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Miguel Angel Chavez-Lopez, a federal prisoner, seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his motion filed under 28 U.S.C. § 2255 (2000). An appeal may not be taken to this court from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). When, as here, a district court dismisses a § 2555 motion solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir. 2001) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). We have reviewed the record and conclude for the reasons stated by the district court that Chavez-Lopez has not made the requisite showing. See United States v. Chavez-Lopez, Nos. CR-98-318; CA-02-177-1 (M.D.N.C. Sept. 3, 2002). Accordingly, we 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