

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7738

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RONALD FIELDS,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. N. Carlton Tilley, Jr., Chief District Judge. (CR-89-251, CA-02-650-1)

Submitted: January 16, 2003

Decided: January 27, 2003

Before WILLIAMS, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Ronald Fields, Appellant Pro Se. Anna Mills Wagoner, United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Ronald Fields seeks to appeal the district court's judgment accepting the magistrate judge's recommendation and denying relief on Fields' Fed. R. Civ. P. 60(b) motion, which the district court construed under 28 U.S.C. § 2255 (2000) and concluded the motion was successive and unauthorized under 28 U.S.C. § 2244(d). Fields also seeks to appeal the district court's order and judgment accepting the magistrate judge's recommendation and denying relief on Field's subsequent 28 U.S.C. § 2255 (2000) motion, which the district court also concluded was successive and unauthorized under 28 U.S.C. § 2244(d).

An appeal may not be taken from the final order in a habeas corpus 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 § 2255 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.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 122 S. Ct. 318 (2001). We have reviewed the record and conclude for the reasons stated by the district

court that Fields has not made the requisite showing. See United States v. Fields, Nos. CR-89-251; CA-02-650-1 (M.D.N.C. Oct. 21, 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