

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7239

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RANDOLPH CROCKER, JR., a/k/a Tiny,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (CR-95-52)

Submitted: November 6, 2003

Decided: November 20, 2003

Before WIDENER, MICHAEL, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Randolph Crocker, Jr., Appellant Pro Se. William David Muhr, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Randolph Crocker, Jr., seeks to appeal the district court's order construing his pleading as a motion under 28 U.S.C. § 2255 (2000), and denying the motion as successive. 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). 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) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, ___, 123 S. Ct. 1029, 1040 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Crocker has not made the requisite showing.* Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, and dismiss the appeal. We dispense with oral argument because the facts and

* To the extent Crocker's notice of appeal and appellate brief could be construed as a motion for authorization to file a successive § 2255 motion, we deny such authorization. See United States v. Winestock, 340 F.3d 200, 208 (4th Cir.), petition for cert. filed, ___ U.S.L.W. ___ (U.S. Sept. 22, 2003) (No. 03-6548).

legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED