

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-7485**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TONY ALFORENZO WALKER,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Henry Coke Morgan, Jr., District Judge. (CR-93-84; CA-98-1415-2)

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Submitted: June 28, 2004

Decided: July 30, 2004

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Before KING and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Tony Alforenzo Walker, Appellant Pro Se. Paul Joseph McNulty, United States Attorney, Alexandria, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Tony Alforenzo Walker seeks to appeal the district court's denial of his Fed. R. Civ. P. 60(b) motion to reconsider judgment. 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). The denial of a Rule 60(b) motion is the final order in a habeas proceeding and thus requires a certificate of appealability for appeal. Reid v. Angelone, 369 F.3d 363, 367-69 (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) (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, 336 (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 Walker has not made the requisite showing because his Rule 60(b) motion was untimely filed. 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