

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6242**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DWAYNE STEPLIGHT,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (CR-01-264; CA-03-33-AM)

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Submitted: August 9, 2004

Decided: September 8, 2004

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Before WIDENER, LUTTIG, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Dwayne Steplight, Appellant Pro Se. LeDora Knight, OFFICE OF THE 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Unpublished opinions are not binding precedent in this circuit.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:

Dwayne Steplight appeals a district court's order construing his "motion to vacate plea of guilty and evidentiary hearing" as a 28 U.S.C. § 2255 (2000) motion and dismissing it as successive, noting that Steplight has not obtained authorization from this court to file such a motion. An appeal may not be taken 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). 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, 338 (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 Steplight has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, deny Steplight's motion for appointment of counsel, and dismiss the appeal. We dispense with

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\*See Reid v. Angelone, 369 F.3d 363, 367-70 (4th Cir. 2004) (holding that order denying relief under Fed. R. Civ. P. 60(b) in a habeas setting is "the final order in a habeas corpus proceeding" subject to the certificate of appealability requirement of 28 U.S.C. § 2253(c)(1)(A) (2000)).

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