

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6665**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOHN MARK PADGETT,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Beaufort. Sol Blatt, Jr., Senior District Judge. (CR-99-457; CA-02-3287-9-8)

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Submitted: November 30, 2004

Decided: January 3, 2005

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Before MICHAEL, GREGORY, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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John Mark Padgett, Appellant Pro Se. Mary Gordon Baker, Assistant United States Attorney, Charleston, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

John Mark Padgett, a federal prisoner, seeks to appeal the district court's order denying relief on his motion filed under 28 U.S.C. § 2255 (2000). 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 for claims addressed by a district court 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 both 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 Padgett has not made the requisite showing. Accordingly, we deny Padgett's motion for an expanded certificate of appealability\* and dismiss the appeal. We dispense with oral argument because the facts and

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\*We note that the district court granted a certificate of appealability as to the issue of the validity of Padgett's conviction in light of Ashcroft v. Free Speech Coalition, 535 U.S. 234 (2002). Because Padgett failed to raise this issue in his informal brief, we find that it is now waived on appeal. See 4th Cir. R. 34(b).

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

DISMISSED