

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7128

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DARRYL JAMES FLOOD,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Gerald Bruce Lee, District Judge. (CR-02-413; CA-03-1475)

Submitted: December 9, 2004

Decided: December 15, 2004

Before NIEMEYER, WILLIAMS, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Darryl James Flood, Appellant Pro Se. Eugene Joseph Rossi, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Darryl James Flood seeks to appeal the district court's order denying relief on his motion filed under 28 U.S.C. § 2255 (2000). The order is not appealable 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, 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 Flood has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny Flood's motion to hold this appeal in abeyance for two cases in which the Supreme Court has granted certiorari. See United States v. Booker, __U.S.__, 125 S. Ct. 11 (U.S. Aug. 2, 2004) (No. 04-104); United States v. Fanfan, __U.S.__, 125 S. Ct. 12 (U.S. Aug. 2, 2004) (No. 04-105). 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