

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6139

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JERRY WAYNE SHEPPARD,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Fox, Senior District Judge. (CR-94-122; CA-98-588)

Submitted: May 19, 2005

Decided: May 26, 2005

Before LUTTIG, MOTZ, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jerry Wayne Sheppard, Appellant Pro Se. Rudolf A. Renfer, Jr., Christine Witcover Dean, Jane J. Jackson, Anne Margaret Hayes, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jerry Wayne Sheppard seeks to appeal the district court's order dismissing his motion filed under 28 U.S.C. § 2255 (2000) as successive. 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, 336-38 (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 Sheppard has not made the requisite showing. Accordingly, we deny a certificate of appealability, dismiss the appeal, and deny Sheppard's motion for abeyance. 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