

Filed: August 29, 2005

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 05-6185  
(CR-98-47)

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ROBERT CY MANN,

Defendant - Appellant.

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O R D E R

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The court amends its opinion filed August 17, 2005, as follows:

On the cover sheet, district judge information -- the name of "Jerome B. Friedman" is deleted and is replaced with "Raymond A. Jackson."

For the Court - By Direction

/s/ Patricia S. Connor  
Clerk

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-6185**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ROBERT CY MANN,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (CR-98-47)

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Submitted: July 27, 2005

Decided: August 17, 2005

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Before WILLIAMS, MOTZ, and TRAXLER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Robert Cy Mann, Appellant Pro Se. Darryl James Mitchell, Special Assistant United States Attorney, Norfolk, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Robert Cy Mann seeks to appeal the district court's order denying his motion under Fed. R. Civ. P. 59(e). The order, which derives from the denial of a motion under 28 U.S.C. § 2255 (2000), is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000); see Reid v. Angelone, 369 F.3d 363, 369 (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 Mann has not made the requisite showing. Accordingly we deny a certificate of appealability and dismiss the appeal.

Additionally, we have determined that Mann's self-styled motion under Rule 59(e) is, in substance, a successive motion attacking his conviction and sentence under § 2255. See United States v. Winestock, 340 F.3d 200, 206-07 (4th Cir.), cert. denied, 540 U.S. 995 (2003). We therefore treat Mann's notice of appeal

and appellate brief as a motion for authorization to file a successive § 2255 motion, and deny such authorization. See id. at 208; 28 U.S.C. § 2244(b) (2000).

Finally, 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