

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-6682**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RAMON LOO-OLVERA,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Anderson. G. Ross Anderson, Jr., District Judge. (CR-03-693; CA-05-465-8)

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Submitted: December 22, 2005

Decided: December 29, 2005

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Before WIDENER, NIEMEYER, and KING, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Ramon Loo-Olvera, Appellant Pro Se. Maxwell Barnes Cauthen, III, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Ramon Loo-Olvera, a federal prisoner, seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2000) motion. An appeal may not be taken from the final order in a post-conviction 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 the district court's assessment of his constitutional claims is 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 Loo-Olvera has not made the requisite showing. On appeal, Loo-Olvera challenges his sentence based on the holding in United States v. Booker, 543 U.S. 220 (2005). This court has recently held that Booker is not retroactively applicable to cases on collateral review. United States v. Morris, 429 F.3d 65 (4th Cir. 2005). Accordingly, we deny Loo-Olvera's motion for a certificate of appealability and dismiss the appeal. 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