

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6959

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

IRVIN SYLVESTER DOYE,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Alexander Williams, Jr., District Judge. (CR-03-22; CA-04-1959)

Submitted: January 4, 2006

Decided: February 28, 2006

Before TRAXLER, KING, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Irvin Sylvester Doye, Appellant Pro Se. Stuart A. Berman, Assistant United States Attorney, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Irvin Sylvester Doye filed a motion under 28 U.S.C. § 2255 (2000), but did not appeal the district court's order denying that motion. Doye subsequently filed a motion for a certificate of appealability, which the district court also denied.* Doye filed a timely notice of appeal from the district court's denial of his motion for a certificate of appealability. The order from which he seeks to appeal is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000); see Jones v. Braxton, 392 F.3d 683 (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, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Doye has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the

*Doye's motion for a certificate of appealability cannot be construed as a notice of appeal from the district court's denial of his § 2255 motion because it was not filed within the time limits allotted for filing a timely notice of appeal.

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