

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-7116

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

GEORGE LYNCH,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Claude M. Hilton, District Judge. (CR-00-103; CA-05-464-1)

Submitted: September 27, 2005

Decided: October 4, 2005

Before LUTTIG, MOTZ, and DUNCAN, Circuit Judges.

Affirmed in part; dismissed in part by unpublished per curiam opinion.

George Lynch, Appellant Pro Se. Morris Rudolph Parker, Jr., Assistant United States Attorney, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

George Lynch appeals a district court order dismissing without prejudice his 28 U.S.C. § 2241 (2000) petition which the court construed as a 28 U.S.C. § 2255 (2000) motion. To the extent the court denied relief under § 2241, we have reviewed the record and the district court's memorandum opinion and order affirm for the reasons cited by the district court. See United States v. Lynch, Nos. CA-05-464-1, CR-00-103 (E.D. Va. filed June 7, 2005; entered June 9, 2005). To the extent the court dismissed the petition as a second or successive § 2255 motion, an appeal may not be taken from the final order in a § 2255 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 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 Lynch has not made the requisite showing.

Accordingly, we affirm the denial of relief under § 2241, deny Lynch's motion for a certificate of appealability and

dismiss the appeal from the denial of the § 2255 motion. 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.*

AFFIRMED IN PART;
DISMISSED IN PART

*To the extent Lynch may be seeking authorization under 28 U.S.C. § 2244 (2000) to file a second and successive 28 U.S.C. § 2255 (2000) motion on the basis of the rules announced in United States v. Booker, 125 S. Ct. 738 (2005), and Blakely v. Washington, 124 S. Ct. 2531 (2004), we deny authorization.