

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-7218**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

NADINE MURIEL WALTON,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, District Judge. (CR-00-5)

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Submitted: December 15, 2005

Decided: December 21, 2005

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Before MICHAEL and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Nadine Muriel Walton, Appellant Pro Se. Michael Cornell Wallace, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Nadine Muriel Walton, a federal prisoner, seeks to appeal the district court's order denying relief on her 28 U.S.C. § 2255 (2000) 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 that Walton has not made the requisite showing.

Walton's claim of error under Blakely v. Washington, 542 U.S. 296 (2004), is unavailing because neither Blakely nor United States v. Booker, 125 S. Ct. 738 (2005) (holding that Blakely applies to the federal sentencing guidelines), is available for post-conviction relief for a federal prisoner whose conviction was final before either of those cases was decided. United States v. Morris, \_\_\_ F.3d \_\_\_, 2005 WL 2950 (4th Cir. Nov. 7, 2005).

Accordingly, we deny 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