

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-7647

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

FRANK LEON ROBINSON,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Aiken. Joseph F. Anderson, Jr., Chief District Judge. (CR-98-523; CA-01-2881)

Submitted: March 30, 2006

Decided: April 7, 2006

Before TRAXLER, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Frank Leon Robinson, Appellant Pro Se. Jane Barrett Taylor, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Frank Leon Robinson seeks to appeal a district court order denying as a second or successive 28 U.S.C. § 2255 (2000) motion his motion filed under Fed. R. Civ. P. 60(b). 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 Robinson has not made the requisite showing. 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

*To the extent that Robinson may be seeking authorization under 28 U.S.C. § 2244 (2000) to file a second and successive 28 U.S.C. § 2255 (2000) motion based upon United States v. Booker, 543 U.S. 220 (2005); Blakely v. Washington, 542 U.S. 296 (2005); and Apprendi v. New Jersey, 530 U.S. 466 (2000), we deny authorization.