

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6033

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

EMMETTE JEROME KELLEY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Newport News. Raymond A. Jackson, District Judge. (CR-99-20; CA-00-137-4)

Submitted: September 28, 2006

Decided: October 5, 2006

Before NIEMEYER, TRAXLER, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Emmette Jerome Kelley, Appellant Pro Se. Robert Edward Bradenham, II, Assistant United States Attorney, Newport News, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Emmette Jerome Kelley seeks to appeal the district court's order denying his Fed. R. Civ. P. 59(e) motion to reconsider its denial of relief on Kelley's 28 U.S.C. § 2255 (2000) motion. The order is not appealable 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 any assessment of the constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. 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 Kelley has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny Kelley's motions for appointment of counsel and for 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