

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6222

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL JOSEPH GRASSO,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. David C. Norton, District Judge. (2:03-cr-00092-DCN-2; 2:05-cv-01115-DCN)

Submitted: April 27, 2006

Decided: May 8, 2006

Before NIEMEYER and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Michael Joseph Grasso, Appellant Pro Se. Alston Calhoun Badger, Jr., Assistant United States Attorney, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Michael Joseph Grasso seeks to appeal the district court's orders denying relief on his motion filed under 28 U.S.C. § 2255 (2000) and denying his Fed. R. Civ. P. 59(e) motion. The orders are 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 the district court's assessment of his constitutional claims is 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 Grasso has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. See United States v. Morris, 429 F.3d 65, 72 (4th Cir. 2005) (holding that United States v. Booker, 543 U.S. 220 (2005) is not retroactively applicable to cases on collateral review). 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