

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7213

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MARVIN BAILEY, a/k/a Larry Anderson, a/k/a
Head,

Defendant - Appellant.

Appeal from the United States District Court for the Southern
District of West Virginia, at Charleston. John T. Copenhaver, Jr.,
District Judge. (2:96-cr-00191)

Submitted: December 21, 2006

Decided: January 3, 2007

Before NIEMEYER, WILLIAMS, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Marvin Bailey, Appellant Pro Se. John Castel Parr, OFFICE OF THE
UNITED STATES ATTORNEY, Wheeling, West Virginia, Gary L. Call,
Assistant United States Attorney, Charleston, West Virginia,
Miller A. Bushong, III, Assistant United States Attorney, Beckley,
West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marvin Bailey seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying his Fed. R. Civ. P. 60(b) motion for reconsideration of the district court's order denying relief on his 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); Reid v. Angelone, 369 F.3d 363, 369 (4th Cir. 2004). 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 Bailey has not made the requisite showing. Accordingly, we deny Bailey's motion for appointment of counsel, 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