

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7907

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

PERCY JOE FISHER,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Salisbury. William L. Osteen, Senior District Judge. (4:94-cr-00137-WLO; 4:96-cv-00905-WLO)

Submitted: May 31, 2007

Decided: June 5, 2007

Before WILKINSON, TRAXLER, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Percy Joe Fisher, Appellant Pro Se. Lisa Blue Boggs, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Percy Joe Fisher 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 Fisher 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