

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6801

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAMES E. DOWNING, a/k/a Marcus Moultrie, a/k/a
Rahmel Lyles, a/k/a Ramez Lyles,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern
District of North Carolina, at New Bern. Malcolm J. Howard, Senior
District Judge. (4:05-cr-00052-H; 4:06-cv-00184-H)

Submitted: August 30, 2007

Decided: September 10, 2007

Before MICHAEL, KING, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

James E. Downing, Appellant Pro Se. Steve R. Matheny, Kimberly Ann
Moore, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North
Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James E. Downing seeks to appeal the district court's orders denying his 28 U.S.C. § 2255 (2000) motion and his subsequent motion for reconsideration. 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 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 Downing 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