

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7069

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JERRY WAYNE SHEPPARD,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Fox, Senior District Judge. (5:94-cr-00122-F; 5:04-cv-00558-F)

Submitted: January 9, 2008

Decided: January 17, 2008

Before WILKINSON, GREGORY, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jerry Wayne Sheppard, Appellant Pro Se. Jane J. Jackson, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jerry Wayne Sheppard seeks to appeal the district court's orders denying relief on his 28 U.S.C. § 2255 (2000) motion and motion to reconsider. We previously vacated and remanded Sheppard's § 2255 action for the district court to hold an evidentiary hearing on whether Sheppard's appellate counsel provided him with ineffective assistance because of a conflict of interest. See United States v. Sheppard, 121 F. App'x 508 (4th Cir. 2005) (No. 03-6601). The district court found that the representation was not constitutionally ineffective. The district court's 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 the district court's assessment of the constitutional claims is debatable or wrong. 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 Sheppard has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny Sheppard's two pending motions to expedite and his motion for leave to file exhibits to his informal brief in

excess of the page limit. 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