

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-5007

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SHEFUN GUY THOMPSON, JR., a/k/a 40,

Defendant - Appellant.

No. 09-8000

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SHEFUN GUY THOMPSON, JR., a/k/a 40,

Defendant - Appellant.

Appeals from the United States District Court for the Eastern
District of Virginia, at Alexandria. Leonie M. Brinkema,
District Judge. (1:08-cr-00190-LMB-1; 1:09-cv-00439-LMB)

Submitted: June 29, 2010

Decided: July 15, 2010

Before GREGORY and SHEDD, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Frank G. Aschmann, ASCHMANN & ASCHMANN, Alexandria, Virginia, for Appellant. Justin Gelfand, Gabriel Trevino, Michelle C. Brice, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, Stephen Andrew Sola, Special Assistant United States Attorney, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In case No. 09-5007, Shefun Guy Thompson, Jr., appeals his conviction for conspiracy to distribute five or more kilograms of cocaine in violation of 21 U.S.C. §§ 841(a)(1), 846 (2006). See United States v. Thompson, No. 1:08-cr-00190-LMB-1 (E.D. Va.). In case No. 09-8000, Thompson appeals the district court's ruling on his 28 U.S.C. § 2255 (West Supp. 2009) motion. See United States v. Thompson, No. 1:09-cv-00439-LMB (E.D. Va.).

In 09-5007, the Government has filed a motion to dismiss Thompson's direct appeal based on the language of an appellate waiver clause in his plea agreement. After careful consideration, we grant the Government's motion and dismiss Thompson's direct appeal.

As for Thompson's appeal in 09-8000, in a § 2255 proceeding, a movant cannot appeal unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006). 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). 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. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003);

Slack v. McDaniel, 529 U.S. 473, 484-85 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Thompson has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal.

We dispense with oral argument in both appeals because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED