

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-6460

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

R. KEITH NEELY, a/k/a Robert Keith Neely,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Jackson L. Kiser, Senior District Judge. (CR-92-78-R, CA-99-742)

Submitted: October 16, 2002

Decided: October 31, 2002

Before WIDENER, WILLIAMS, and MICHAEL, Circuit Judges.

Affirmed in part and dismissed in part by unpublished per curiam opinion.

R. Keith Neely, Appellant Pro Se. Ruth Elizabeth Plagenhoef, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

R. Keith Neely seeks to appeal the district court's orders denying his motions filed under 28 U.S.C. § 2255 (2000) and Fed. R. Crim. P. 33. Neely has also filed a motion for a certificate of appealability. As to Neely's § 2255 and Rule 33 motions, we have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. Accordingly, we affirm the denial of Neely's Rule 33 motion and dismiss his appeal of the denial of his § 2255 motion for the reasons stated by the district court. See United States v. Neely, Nos. CR-92-78-R; CA-99-742 (W.D. Va. Feb. 21, 2002). Because Neely has failed to make a substantial showing of the denial of a constitutional right, we deny a certificate of appealability. See 28 U.S.C. § 2253 (2000). 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.

AFFIRMED IN PART; DISMISSED IN PART