

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6020

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MYRON ARVEL WARD,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Norman K. Moon, District Judge. (CR-97-40, CA-01-213-7)

Submitted: March 6, 2003

Decided: May 1, 2003

Before WILKINSON, MICHAEL, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Myron Arvel Ward, Appellant Pro Se. Bruce A. Pagel, OFFICE OF THE UNITED STATES ATTORNEY, Charlottesville, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Myron Arvel Ward, a federal prisoner, seeks to appeal the district court's orders denying relief on his motion filed under 28 U.S.C. § 2255 (2000) and denying his motion to reconsider. An appeal may not be taken from the final order in a § 2255 proceeding 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 for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). As to claims dismissed by a district court solely on procedural grounds, a certificate of appealability will not issue unless the movant can demonstrate both "(1) 'that jurists of reason would find it debatable whether the [motion] states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 534 U.S. 941 (2001). We have independently reviewed the record and conclude that Ward has not satisfied either standard. Accordingly, we deny a certificate of appealability and dismiss the appeal. See Miller-El v. Cockrell, ___ U.S. ___, 2003 WL 431659 (U.S. Feb. 25, 2003) (No. 01-7662), at *10. We deny Ward's motions to retain the record. 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