

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6883**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CURTIS D. DAVIS,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Newport News. Jerome B. Friedman, District Judge. (CR-99-55)

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Submitted: July 15, 2004

Decided: July 23, 2004

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Before MOTZ, KING, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Curtis D. Davis, Appellant Pro Se. Timothy Richard Murphy, Special Assistant United States Attorney, Newport News, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Curtis D. Davis seeks to appeal the district court's orders dismissing as untimely his motion filed under 28 U.S.C. § 2255 (2000) and denying his motion to vacate the judgment. 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 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 his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U. S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Davis 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