

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7961

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAMES ALVIN HARGROVE,

Defendant - Appellant.

Appeal from the United States District Court for the Middle
District of North Carolina, at Durham. James A. Beaty, Jr.,
District Judge. (CR-02-232; CA-04-145)

Submitted: March 30, 2005

Decided: April 21, 2005

Before WILKINSON, LUTTIG, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

James Alvin Hargrove, Appellant Pro Se. Robert Albert Jamison
Lang, OFFICE OF THE UNITED STATES ATTORNEY, Winston-Salem, North
Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

James Alvin Hargrove filed in the district court a motion for reconsideration of the district court's order denying his 28 U.S.C. § 2255 (2000) motion. He seeks to appeal the district court's order construing the motion for reconsideration as a successive § 2255 motion and transferring it to this court for consideration under 28 U.S.C. § 2244 (2000). 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 the district court's assessment of his constitutional claims is 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 Hargrove 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