

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7100

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

WAYNELY BROWN,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Asheville. Lacy H. Thornburg,
District Judge. (1:99-cr-00075; 1:03-cv-00111)

Submitted: August 24, 2006

Decided: September 1, 2006

Before KING, SHEDD, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Waynely Brown, Appellant Pro Se. Amy Elizabeth Ray, OFFICE OF THE
UNITED STATES ATTORNEY, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Waynely Brown seeks to appeal the district court's orders denying relief on his Rule 60(b) motion challenging the denial of his 28 U.S.C. § 2255 (2000) motion and his motion for clarification. The orders are not appealable 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 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. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude Brown has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny his motion to place the case in abeyance. 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.*

*To the extent Brown may be seeking authorization under 28 U.S.C. § 2244 (2000) to file a second or successive 28 U.S.C. (continued...)

DISMISSED

* (...continued)
§ 2255 (2000) motion in order to raise claims under United States v. Booker, 543 U.S. 220 (2005) and Blakely v. Washington, 542 U.S. 296 (2004), we deny authorization.