

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7366

ALVIN DARRELL SMITH,

Petitioner - Appellant,

versus

WARDEN D. L. STINE, USP McCreary; WARDEN
STEVEN SMITH, District of Columbia; JOHN R.
SIMPSON, USDC - USDOJ,

Respondents - Appellees.

Appeal from the United States District Court for the Northern
District of West Virginia, at Elkins. Robert E. Maxwell, Senior
District Judge. (2:05-cv-00064-REM)

Submitted: January 17, 2008

Decided: February 13, 2008

Before TRAXLER, SHEDD, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Alvin Darrell Smith, Appellant Pro Se. Helen Campbell Altmeyer,
OFFICE OF THE UNITED STATES ATTORNEY, Wheeling, West Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Alvin Darrell Smith, a District of Columbia prisoner, seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2241 (2000) petition. The order is 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 that Smith has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. The court further grants the Respondent's motion to substitute custodian and denies Smith's motions to stop transfer and directing Warden Stine to comply with his declaration. 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