

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7272

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HENRY EARL MILLER, a/k/a Stef, a/k/a Stefan,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Henry F. Floyd, District Judge. (6:04-cr-00022-HFF-3; 6:08-cv-70075-HFF)

Submitted: January 21, 2009

Decided: March 27, 2009

Before NIEMEYER, GREGORY, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Henry Earl Miller, Appellant Pro Se. Elizabeth Jean Howard, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Henry Earl Miller seeks to appeal the district court's order denying as successive his motion under 28 U.S.C. § 2255 (2006). The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006); Reid v. Angelone, 369 F.3d 363, 369 (4th Cir. 2004). 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) (2006). 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 Miller has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny Miller's motions to expedite, to appoint counsel, to instruct the district court to accept filing of his § 2255 motion, for immediate release pending appeal, for recusal and reassignment, for an evidentiary hearing, for authorization to file a direct appeal, to amend § 2255 motion, and his complaint of violations of Castro v.

United States, 540 U.S. 375 (2003), and United States v. Emmanuel, 288 F.3d 644 (4th Cir. 2002).

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