

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6027

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAMIAN G. BEY, a/k/a Damien Giovanni Bey,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. W. Earl Britt, Senior District Judge. (5:03-cr-00252-BR-1; 5:05-cv-00323)

Submitted: August 26, 2009

Decided: September 1, 2009

Before TRAXLER, Chief Judge, and GREGORY and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Damian G. Bey, Appellant Pro Se. Mary Jude Darrow, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Damian G. Bey seeks to appeal the district court's order denying relief on his motion seeking reconsideration of the denial of his 28 U.S.C.A. § 2255 (West Supp. 2009) motion. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006); see 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 Bey has not made the requisite showing. Accordingly, we deny Bey's motion for transmittal of records, 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