

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7727

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

VICTOR WARDELL WRIGHT,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Deborah K. Chasanow, District Judge. (8:06-cr-00038-DKC; 8:07-cv-02707-DKC)

Submitted: February 28, 2008

Decided: March 10, 2008

Before WILKINSON, NIEMEYER, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Victor Wardell Wright, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Victor Wardell Wright seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2255 (2000) motion because Wright's direct appeal of his conviction was still pending, and noting that Wright may file a new § 2255 motion upon the conclusion of direct review.* 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 Wright 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

*Wright titled his motion as a Fed. R. Civ. P. 60(b) request for reconsideration. However, the rules of civil procedure do not apply in criminal cases, so the district court did not err in addressing this motion as one under 28 U.S.C. § 2255.

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED