

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6500

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALFREDO LEON-SANCHEZ,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Statesville. Richard L.
Voorhees, District Judge. (5:06-cv-00146-RLV)

Submitted: September 3, 2009

Decided: September 17, 2009

Before MOTZ and DUNCAN, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Alfredo Leon-Sanchez, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Alfredo Leon-Sanchez seeks to appeal the district court's order denying his Fed. R. Civ. P. 60(b) motion* for reconsideration of the district court's order denying relief on his 28 U.S.C.A. § 2255 (West 2007) 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); 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). 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, 484-85 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Leon-Sanchez has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss

* We note that the motion was a proper Rule 60(b) motion, not a second or successive § 2255 motion. See Gonzalez v. Crosby, 545 U.S. 524, 530-32 & n.4 (2005); United States v. Winestock, 340 F.3d 200, 206-08 (4th Cir. 2003).

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