

Filed: November 4, 2010

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6598
(1:05-cr-00200-WO-1; 1:08-cv-00326-AWO-RAE)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARRELL LAMONT BOSTICK,

Defendant - Appellant.

O R D E R

The Court amends its opinion filed July 1, 2010, as follows:

On page 2, lines 2 and 3 of text -- the language "accepting the recommendation of the magistrate judge and" is deleted.

For the Court - By Direction

/s/ Patricia S. Connor
Clerk

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6598

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARRELL LAMONT BOSTICK,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., District Judge. (1:05-cr-00200-WO-1; 1:08-cv-00326-AWO-RAE)

Submitted: June 24, 2010

Decided: July 1, 2010

Before DUNCAN, AGEE, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Darrell Lamont Bostick, Appellant Pro Se. Angela Hewlett Miller, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darrell Lamont Bostick 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 Supp. 2010) 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) (2006). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniell, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the motion states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85. We have independently reviewed the record and conclude that Bostick 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 contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED