UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6936

BRANDON CLARENCE JEFFERSON,

                                    Plaintiff - Appellant,

        versus

UNNAMED DEFENDANT,

                                    Defendant - Appellee.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke.   Jackson L. Kiser, Senior
District Judge.   (7:06-cv-00236-jlk)

Submitted: November 21, 2006   Decided: November 30, 2006

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

Dismissed by unpublished per curiam opinion.

Brandon Clarence Jefferson, Appellant Pro Se.

PER CURIAM:

Brandon Clarence Jefferson seeks to appeal the district court's order construing, in part, his 42 U.S.C. § 1983 (2000) complaint as a 28 U.S.C. § 2254 (2000) petition, denying relief on those claims, and dismissing the complaint. 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 Jefferson has not made the requisite showing. We further find that any claims for damages under § 1983 are frivolous.

Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, 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