

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-7175**

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WILLIE LEE WHITFIELD,

Petitioner - Appellant,

v.

GENE M. JOHNSON, Director for the Virginia Department of  
Corrections,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern  
District of Virginia, at Richmond. M. Hannah Lauck, Magistrate  
Judge. (3:07-cv-00417-MHL)

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Submitted: November 20, 2008

Decided: December 1, 2008

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

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Dismissed by unpublished per curiam opinion.

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Willie Lee Whitfield, Appellant Pro Se. Gregory William  
Franklin, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond,  
Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Willie Lee Whitfield seeks to appeal the magistrate judge's order\* denying relief on his 28 U.S.C. § 2254 (2000) petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. See 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 magistrate judge is debatable or wrong and that any dispositive procedural ruling by the magistrate judge is likewise debatable. See 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 Whitfield 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

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\* The parties consented to the exercise of jurisdiction by the magistrate judge pursuant to 28 U.S.C. § 636(c) (2000).

before the court and argument would not aid the decisional process.

DISMISSED