

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 05-7515

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BUNNARY PROM,

Petitioner - Appellant,

versus

GENE M. JOHNSON,

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. (CA-04-839)

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Submitted: January 26, 2006

Decided: February 3, 2006

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Before LUTTIG, WILLIAMS, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Bunnary Prom, Appellant Pro Se. Thomas Drummond Bagwell, Assistant Attorney General, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Bunnary Prom, a Virginia prisoner, seeks to appeal the magistrate judge's order dismissing his petition filed under 28 U.S.C. § 2254 (2000) as untimely filed. An appeal may not be taken from the final order in a habeas corpus proceeding 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 the district court's assessment of his constitutional claims is debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Prom has not made the requisite showing. 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