UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6804

EDWARD JAMES EGAN, SR.,

                    Petitioner - Appellant,

          v.

GENE M. JOHNSON,

                    Respondent - Appellee.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Glen E. Conrad, District Judge.
(7:07-cv-00509-gec-mfu)

Submitted: September 16, 2008   Decided: September 23, 2008

Before MOTZ, TRAXLER, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Edward James Egan, Sr., Appellant Pro Se. Joshua Mikell Didlake,
Assistant Attorney General, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Edward James Egan, Sr. seeks to appeal the district court's order dismissing as untimely his 28 U.S.C. § 2254 (2000) petition. 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 Egan has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, and dismiss the appeal. In addition, we deny Egan's motions for oral argument via video conference and for appointment of counsel and his motion seeking remand to state court. 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