

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-6992**

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MARION LEON BEA,

Petitioner - Appellant,

v.

GENE JOHNSON, Director Department of Corrections,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. T. S. Ellis III, Senior District Judge. (1:08-cv-00486-TSE-TCB)

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Submitted: October 21, 2008

Decided: October 28, 2008

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Before MICHAEL, TRAXLER, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Marion Leon Bea, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marion Leon Bea seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2254 (2000) petition as successive. 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 district court is debatable or wrong and that any dispositive procedural ruling by the district court 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 Bea 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