UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7047

DANIEL W. KINARD,

Petitioner - Appellant,

v.

TERRY O'BRIEN,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Jackson L. Kiser, Senior District Judge. (7:07-CV-00601-jlk-mfu)

Submitted: October 14, 2008 Decided: October 20, 2008

Before KING, GREGORY, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Daniel W. Kinard, Appellant Pro Se. Thomas Linn Eckert, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daniel W. Kinard, a prisoner in federal custody serving a sentence imposed by the District of Columbia, seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2241 (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); see Madley v. United States Parole Comm'n, 278 F.3d 1306, 1310 (D.C. Cir. 2002). 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 any assessment of the constitutional claims by the district court is debatable or wrong, and 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 Kinard 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