

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-7062**

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ANTONIO DANELL JOHNSON,

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 Richmond. M. Hannah Lauck,  
Magistrate Judge. (3:07-cv-00747-MHL)

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Submitted: January 15, 2009

Decided: February 13, 2009

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Before MICHAEL, KING, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Antonio Danell Johnson, Appellant Pro Se. Alice T. Armstrong,  
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Unpublished opinions are not binding precedent in this circuit.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:

Antonio Danell Johnson 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 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 Johnson 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

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\* The parties consented to the jurisdiction of a magistrate judge pursuant to 28 U.S.C. § 636(c) (2006).

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED