UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6717

ROSS BONIFACIO ABIDO,

                Petitioner – Appellant,

      v.

DAVID BALLARD, Warden, Mount Olive Correctional Facility,

                Respondent – Appellee.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Joseph R. Goodwin, Chief District Judge. (2:08-cv-00341)

Submitted: January 14, 2010   Decided: January 20, 2010

Before MOTZ, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Ross Bonifacio Abido, Appellant Pro Se. R. Christopher Smith, Charleston, West Virginia; Dawn Ellen Warfield, Deputy Attorney General, Charleston, West Virginia, for Appellee.

PER CURIAM:

Ross Bonifacio Abido seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2254 (2006) petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006). 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) (2006). 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 Abido has not made the requisite showing. Accordingly, we deny Abido's motion for appointment of counsel, 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

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