UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 09-7689

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VINCENT LEE FOREMAN,

               Petitioner - Appellant,

      v.

GENE M. JOHNSON, Director of the Virginia Department of
Corrections,

               Respondent - Appellee.

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Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Jerome B. Friedman, District
Judge. (2:09-cv-00164-JBF-FBS)

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Submitted: February 18, 2010   Decided: February 24, 2010

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Before WILKINSON, MICHAEL, and KING, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Vincent Lee Foreman, Appellant Pro Se. Robert H. Anderson, III,
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Unpublished opinions are not binding precedent in this circuit.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:

Vincent Lee Foreman seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2254 (2006) 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) (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. 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 Foreman has not made the requisite showing. Accordingly, we deny Foreman's motion for 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