

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6518

ALVIN LEE GREGORY,

Petitioner - Appellant,

v.

MICHAEL V. COLEMAN, Acting Warden, Mount Olive Correctional
Complex,

Respondent - Appellee.

Appeal from the United States District Court for the Southern
District of West Virginia, at Beckley. David A. Faber, Senior
District Judge. (5:02-cv-00472)

Submitted: July 22, 2010

Decided: August 2, 2010

Before NIEMEYER, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Alvin Lee Gregory, Appellant Pro Se. Charles Patrick
Houdyschell, Jr., WEST VIRGINIA DIVISION OF CORRECTIONS,
Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Alvin Lee Gregory, a state prisoner, seeks to appeal the district court's order denying relief on his motions to vacate judgment and file objections.* 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). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the petition states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85. We have independently reviewed the record and conclude that Gregory has not made the requisite showing.

* Gregory sought to challenge the district court's prior orders (1) construing his 28 U.S.C.A. § 2241 (West 2006 & Supp. 2010) petition as a 28 U.S.C. § 2254 (2006) petition and dismissing it as untimely, and (2) denying reconsideration.

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