

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6980

MICHAEL ALEXANDER BETHEA,

Petitioner - Appellant,

v.

DEPARTMENT OF CORRECTIONS, Director,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. M. Hannah Lauck, Magistrate Judge. (3:09-cv-00770-MHL)

Submitted: October 11, 2011

Decided: October 31, 2011

Before WILKINSON, WYNN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael Alexander Bethea, Appellant Pro Se. Robert H. Anderson, III, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael Alexander Bethea seeks to appeal the magistrate judge's final order denying relief on his 28 U.S.C. § 2254 (2006) petition.* This 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). 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 Bethea has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We

* Bethea consented to the exercise of jurisdiction by the magistrate judge, as permitted by 28 U.S.C. § 636(c) (2006).

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