

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-6270

RYAN O'NEAL DAVIS,

Petitioner - Appellant,

v.

RANDALL C. MATHENA, Chief Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Arenda Wright Allen, District Judge. (2:11-cv-00501-AWA-FBS)

Submitted: May 31, 2012

Decided: June 6, 2012

Before KING, DUNCAN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Ryan O'Neal Davis, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ryan O'Neal Davis seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2006) petition without prejudice based on Davis' failure to provide the required copies of his petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A) (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 Davis has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, and dismiss the appeal. We also deny Davis' motion to appoint counsel. 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