

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-6295

NEGASH MALEDE,

Petitioner - Appellant,

v.

ERIC WILSON, Warden, FCI Petersburg,

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-00322-AWA-TEM)

Submitted: April 26, 2012

Decided: May 1, 2012

Before GREGORY, AGEE, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Negash Malede, Appellant Pro Se. Susan Lynn Watt, Assistant United States Attorney, Norfolk, Virginia, for Appellee

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Negash Malede, a federal prisoner convicted under the District of Columbia Code, seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C.A. § 2241 (West 2006 & Supp. 2011) 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); Madley v. U.S. Parole Comm'n, 278 F.3d 1306, 1309-10 (D.C. Cir. 2002). 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 Malede 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 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

* In particular, we note that the timely filing of objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation. United States v. Midgette, 478 F.3d 616, 621-22 (4th Cir. 2007); Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140, 155 (1985). Because Malede, a pro se litigant, received notice of the consequences of a failure to object to the magistrate judge's report and yet failed to do so, he has waived appellate review. Ids.