

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 12-7454**

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MICHAEL P. GRAFMULLER,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, 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. Tommy E. Miller, Magistrate  
Judge. (2:12-cv-00052-TEM)

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Submitted: January 31, 2013

Decided: February 8, 2013

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Before MOTZ, SHEDD, and DAVIS, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Michael P. Grafmuller, Appellant Pro Se. Susan Mozley Harris,  
Assistant Attorney General, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael P. Grafmuller seeks to appeal the magistrate judge's order denying relief on his 28 U.S.C. § 2254 (2006) 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 magistrate judge 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 magistrate judge 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 Grafmuller has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave

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\* The parties consented to the jurisdiction of the magistrate judge pursuant to 28 U.S.C. § 636(c) (2006).

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 this court and argument would not aid the decisional process.

DISMISSED