

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7574

LEROY GREENE, JR.,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, Director,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. M. Hannah Lauck, Magistrate Judge. (3:10-cv-00053-MHL)

Submitted: February 26, 2013

Decided: February 28, 2013

Before MOTZ, WYNN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Leroy Greene, Jr., Appellant Pro Se. Joshua Mikell Didlake, Assistant Attorney General, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Leroy Greene, Jr., seeks to appeal the order of the magistrate judge* 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. See 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 Greene has not made the requisite showing. Accordingly, we deny Greene's motion for a certificate of appealability, deny

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

Greene's motion to appoint counsel, 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