

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7858

SYLVESTER TURNER, JR.,

Petitioner - Appellant,

v.

BRYANT WATSON,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. M. Hannah Lauck, Magistrate Judge. (3:11-cv-00757-MHL)

Submitted: February 22, 2013

Decided: March 13, 2013

Before MOTZ, KING, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Sylvester Turner, Jr., Appellant Pro Se. Victoria Lee Johnson, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Sylvester Turner, Jr., 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 magistrate judge'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 Turner has not made the requisite showing. Accordingly, we

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

deny a certificate of appealability, deny leave to proceed in forma pauperis, grant the motion to amend the informal brief 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