

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6561

WILLIS ALFRED BRAILEY,

Petitioner - Appellant,

v.

G. M. HINKLE, Chief Warden, Greensville Correctional Center,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Richmond. John A. Gibney, Jr.,
District Judge. (3:12-cv-00167-JAG)

Submitted: July 18, 2013

Decided: July 23, 2013

Before WILKINSON, MOTZ, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Willis Alfred Brailey, Appellant Pro Se. Eugene Paul Murphy,
OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Willis Alfred Brailey seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2006) petition and has filed an application to proceed in forma pauperis. The district court's 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 Brailey has not made the requisite showing. Accordingly, we deny Brailey's application to proceed in forma pauperis, deny a certificate of appealability 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