

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6835

RICHARD WAYNE SEARS,

Petitioner - Appellant,

v.

JEFFREY DILLMAN, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. Anthony J. Trenga,
District Judge. (1:12-cv-00942-AJT-IDD)

Submitted: September 16, 2013

Decided: October 9, 2013

Before NIEMEYER, DAVIS, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Richard Wayne Sears, 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Unpublished opinions are not binding precedent in this circuit.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:

Richard Wayne Sears seeks to appeal the district court's order dismissing as untimely 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 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 v. McDaniel, 529 U.S. 473, 484-85 (2000).

We have independently reviewed the record and conclude that Sears 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 this court and argument would not aid the decisional process.

DISMISSED