

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7615

RAYMOND V. BETHEL, JR.,

Petitioner - Appellant,

v.

COMMONWEALTH OF VIRGINIA,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Henry E. Hudson, District Judge. (3:13-cv-00013-HEH)

Submitted: November 21, 2013

Decided: November 26, 2013

Before KING, DUNCAN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Raymond V. Bethel, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Raymond V. Bethel, Jr., seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2254 (2006) petition for failure to exhaust state court remedies. 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 Bethel has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny Bethel's motion for counsel. 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