

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7920

JAMES H. DILLINGHAM, III,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, Director, Virginia Department of
Corrections,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Arenda L. Wright Allen,
District Judge. (2:13-cv-00200-AWA-DEM)

Submitted: April 29, 2014

Decided: May 13, 2014

Before NIEMEYER, SHEDD, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

James H. Dillingham, III, 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Unpublished opinions are not binding precedent in this circuit.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:

James H. Dillingham, III, seeks to appeal the district court's orders accepting the recommendation of the magistrate judge and dismissing his 28 U.S.C. § 2254 (2012) petition as untimely and denying his Fed. R. Civ. P. 59(e) motion for reconsideration. The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A) (2012); Reid v. Angelone, 369 F.3d 363, 369 (4th Cir. 2004). 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) (2012). 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 Dillingham 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