

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6123

MICHAEL S. GORBHEY,

Petitioner - Appellant,

v.

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

Respondent - Appellee.

No. 14-6611

MICHAEL S. GORBHEY,

Petitioner - Appellant,

v.

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

Respondent - Appellee.

Appeals from the United States District Court for the Eastern
District of Virginia, at Norfolk. Raymond A. Jackson, District
Judge. (2:12-cv-00667-RAJ-TEM)

Submitted: May 30, 2014

Decided: June 4, 2014

Before SHEDD, DUNCAN, and WYNN, Circuit Judges.

No. 14-6123 dismissed; No. 14-6611 affirmed by unpublished per curiam opinion.

Michael S. Gorbey, Appellant Pro Se. Rosemary Virginia Bourne, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In Case No. 14-6123, Michael S. Gorbey seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing as untimely his 28 U.S.C. § 2254 (2012) 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) (2012). 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 Gorbey has not made the requisite showing. Accordingly, we deny Gorbey's pending motions, deny a certificate of appealability, and dismiss the appeal.

In Case No. 14-6611, Gorbey seeks to appeal the district court's order denying his motion for reconsideration of the order dismissing his § 2254 petition. Finding no reversible error, we affirm the district court's order.

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.

No. 14-6123 DISMISSED

No. 14-6611 AFFIRMED