

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6538

BILLY G. ASEMANI,

Petitioner - Appellant,

v.

WARDEN FRANK BISHOP; THE ATTORNEY GENERAL OF THE STATE OF
MARYLAND,

Respondents - Appellees.

Appeal from the United States District Court for the District of
Maryland, at Baltimore. Richard D. Bennett, District Judge.
(1:13-cv-00925-RDB)

Submitted: August 26, 2014

Decided: September 10, 2014

Before KING and THACKER, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Billy G. Asemani, Appellant Pro Se. Edward John Kelley, OFFICE
OF THE ATTORNEY GENERAL OF MARYLAND, Baltimore, Maryland, for
Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Billy G. Asemani seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 (2012) petition as time-barred. 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) (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 Asemani has not made the requisite showing. The record supports the district court's alternative conclusion that Asemani failed to exhaust his claims in state court, and Asemani concedes as much. Further, the record supports the conclusion that Asemani did not qualify for equitable tolling.

Accordingly, we deny Asemani's motion to appoint counsel, 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