

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6881

JOHN THOMAS POLLARD,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, Director,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca Beach Smith, Chief District Judge. (2:14-cv-00376-RBS-TEM)

Submitted: October 15, 2015

Decided: November 12, 2015

Before WILKINSON, THACKER, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

John Thomas Pollard, Appellant Pro Se. James Milburn Isaacs, Jr., OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Thomas Pollard seeks to appeal the district court's orders (1) accepting the recommendation of the magistrate judge and dismissing without prejudice his 28 U.S.C. § 2254 (2012) petition for failure to exhaust his state court remedies, and (2) denying his motion to alter or amend judgment. 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). 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 Pollard 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