

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6006

KEVIN P. RIVERA,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, Director of the Virginia Department of Corrections; TRACY RAY, Offender Management Services; JAMES PARKS, Offender Management Services; KAREN BROWN, Chairman of the VA Parole Board,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (2:15-cv-00143-RAJ-DEM)

Submitted: June 23, 2016

Decided: June 28, 2016

Before MOTZ, KING, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Kevin P. Rivera, Appellant Pro Se. Laura Haeberle Cahill, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kevin P. Rivera 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 Rivera has not made the requisite showing with respect to the first claim for relief in his § 2254 petition. Furthermore, because Rivera's informal brief does not challenge the basis for the district court's disposition of the remaining claims presented in his petition, Rivera has forfeited appellate review of that portion

of the court's order. See 4th Cir. R. 34(b). 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