

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-6618

MILTON ANTOINE BROWN, a/k/a Sultan Immanuel El-Bey,

Petitioner - Appellant,

v.

HAROLD CLARKE; UNITED STATES OF AMERICA; UNITED STATES
CONGRESS; UNITED STATES SUPREME COURT,

Respondents - Appellees.

No. 19-6691

MILTON ANTOINE BROWN, a/k/a Sultan Immanuel El-Bey,

Petitioner - Appellant,

v.

HAROLD CLARKE; UNITED STATES OF AMERICA; UNITED STATES
CONGRESS; UNITED STATES SUPREME COURT,

Respondents - Appellees.

Appeals from the United States District Court for the Eastern District of Virginia, at
Richmond. John A. Gibney, Jr., District Judge; Roderick Charles Young, Magistrate
Judge. (3:19-cv-00081-JAG-RCY)

Submitted: July 16, 2019

Decided: July 19, 2019

Before MOTZ, WYNN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Milton Brown, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In these consolidated cases Milton Antoine Brown seeks to appeal the magistrate judge's order directing him to show cause why Brown's 28 U.S.C. § 2254 (2012) petition should not be dismissed for failure to exhaust his state court remedies, as well as the district court's subsequent order dismissing Brown's § 2254 petition for failure to exhaust. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2012), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2012); Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949). The magistrate judge's order to show cause is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we deny leave to proceed in forma pauperis and dismiss the appeal in No. 19-6618 for lack of jurisdiction.

The district court's order dismissing Brown's 28 U.S.C. § 2254 (2012) petition 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 Brown has not made the requisite showing. Accordingly, in appeal No. 19-6691 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