UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 20-7614

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JOHN RODNEY JOHNSON,

                   Petitioner - Appellant,

       v.

DONNIE AMES, Superintendent,

                   Respondent - Appellee.

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Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Thomas E. Johnston, Chief District Judge. (2:19-cv-00487-TEJ)

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Submitted: February 23, 2021   Decided: February 26, 2021

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Before MOTZ, KEENAN, and HARRIS, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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John Rodney Johnson, Appellant Pro Se. Lindsay Sara See, OFFICE OF THE ATTORNEY GENERAL OF WEST VIRGINIA, Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Rodney Johnson seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing as untimely Johnson's 28 U.S.C. § 2254 petition. *See Gonzalez v. Thaler*, 565 U.S. 134, 148 & n.9 (2012) (explaining that § 2254 petitions are subject to one-year statute of limitations, running from latest of four commencement dates enumerated in 28 U.S.C. § 2244(d)(1)). The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A). 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). When, as here, 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. *Gonzalez*, 565 U.S. at 140-41 (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Johnson has not made the requisite showing. Accordingly, although we grant Johnson's motion for leave to use the district court record, we deny Johnson's motions to supplement the record and for a certificate of appealability, and we 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