

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-7590

ERIC G. BANKS, SR.,

Petitioner - Appellant,

v.

MARYLAND ATTORNEY GENERAL; WARDEN CHRISTOPHER S. SMITH,

Respondents - Appellees.

Appeal from the United States District Court for the District of Maryland, at Baltimore.
Richard D. Bennett, Senior District Judge. (1:20-cv-02445-RDB)

Submitted: February 14, 2023

Decided: May 23, 2023

Before GREGORY, Chief Judge, RICHARDSON, Circuit Judge, and KEENAN, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Eric G. Banks, Sr., Appellant Pro Se. Andrew John DiMiceli, Assistant Attorney General,
OFFICE OF THE ATTORNEY GENERAL OF MARYLAND, Baltimore, Maryland, for
Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eric G. Banks, Sr., seeks to appeal the district court's order dismissing as untimely his 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 Banks has not made the requisite showing. Accordingly, we deny Banks' motions for a certificate of appealability and for summary judgment 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