

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-7051**

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SIDNEY TERRY JOSHUA,

Petitioner - Appellant,

versus

RONALD ANGELONE, Director,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. David G. Lowe, Magistrate Judge. (CA-02-9)

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Submitted: July 10, 2003

Decided: July 15, 2003

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Before WILKINSON, MOTZ, and TRAXLER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Sidney Terry Joshua, Appellant Pro Se. Hazel Elizabeth Shaffer, Assistant Attorney General, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Sidney Terry Joshua, a state prisoner, seeks to appeal the magistrate judge's order denying relief on his petition filed under 28 U.S.C. § 2254 (2000).<sup>\*</sup> An appeal may not be taken from the final order in a habeas corpus proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). When, as here, a § 2254 petition is dismissed solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the magistrate judge was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 122 S. Ct. 318 (2001). We have independently reviewed the record conclude that Joshua has not made the requisite showing. See Miller-El v. Cockrell, 123 S. Ct. 1029 (2003). Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the

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<sup>\*</sup> The parties consented to have a magistrate judge conduct all proceedings in the case, including the order and entry of a final judgment in accordance with 28 U.S.C. § 636(c) (2000) and Fed. R. Civ. P. 73.

materials before the court and argument would not aid the decisional process.

DISMISSED