

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7229

MUHAMMAD ABD SALEEM EURY,

Petitioner - Appellant,

versus

S. K. YOUNG,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Jackson L. Kiser, Senior District Judge. (CA-02-908-2)

Submitted: December 19, 2002

Decided: December 31, 2002

Before WILKINS and KING, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Muhammad Abd Saleem Eury, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Muhammad Abd Saleem Eury, a Virginia prisoner, seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2254 (2000) petition for failure to exhaust state remedies. 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 district court dismisses a § 2254 petition 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 district court 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 reviewed the record and conclude for the reasons stated by the district court that Eury has not made the requisite showing. See Eury v. Young, No. CA-02-908-2 (W.D. Va. Aug. 14, 2002). 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

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

DISMISSED