

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7932

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

FRED MCKINLEY JONES,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Richard L. Williams, Senior District Judge. (CR-99-94, CA-00-754)

Submitted: April 28, 2003

Decided: June 18, 2003

Before WILKINSON, LUTTIG, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Fred McKinley Jones, Appellant Pro Se. Stephen Wiley Miller, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Fred McKinley Jones seeks to appeal the district court's order denying relief on his motion filed under 28 U.S.C. § 2255 (2000). An appeal may not be taken to this court 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).

A certificate of appealability will not issue for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). As to claims dismissed by a district court 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, 534 U.S. 941 (2001).

We have independently reviewed the record and conclude that Jones has not satisfied either standard.* See Miller-El v. Cockrell, ___ U.S. ___, 123 S. Ct. 1029 (2003). Accordingly, we

* Jones attempts to raise an issue in his informal brief that was not before the district court and that we decline to address. See Muth v. United States, 1 F.3d 246, 250 (4th Cir. 1993) (noting that issues raised for the first time on appeal generally will not be considered).

deny a certificate of appealability, and dismiss the appeal. We deny Jones's motions for appointment of counsel, for expansion of the record, for judicial notice, and for an evidentiary hearing. Finally, 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