

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6024

TODD FREDERICK YOUNGER,

Petitioner - Appellant,

versus

A. D. ROBINSON, Warden, Nottoway Correctional
Center,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. Claude M. Hilton, Chief
District Judge. (CA-02-1458-AM)

Submitted: April 17, 2003

Decided: April 22, 2003

Before WIDENER, WILLIAMS, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Todd Frederick Younger, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Todd F. Younger seeks to appeal the district court's order construing his petition for a writ of error coram nobis as a petition filed under 28 U.S.C. § 2254 (2000), and dismissing it as untimely. 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, 534 U.S. 941 (2001). We have independently reviewed the record and conclude that Younger has not made the requisite showing. See Miller-El v. Cockrell, ___ U.S. ___, 2003 WL 431659, at *10 (U.S. Feb. 25, 2003) (No. 01-7662). Accordingly, we deny a certificate of appealability, deny the motion for leave to proceed in forma pauperis, 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