

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6822

JOHNNY HALL,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA; ARTHUR F. BEELER,
Warden,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, District Judge. (CA-03-129)

Submitted: October 24, 2003

Decided: November 12, 2003

Before WIDENER, MICHAEL, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Johnny Hall, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Johnny Hall seeks to appeal the district court's order dismissing his habeas corpus petition, construed by the district court as a successive motion under 28 U.S.C. § 2255 (2000). An appeal may not be taken from the final order in a proceeding under § 2255 unless a circuit judge or justice issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B). 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) (2000). An appellant meets this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, ___, 123 S. Ct. 1029, 1039 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Hall has not made the requisite showing. Accordingly, we deny Hall's motion for a certificate of appealability and dismiss the appeal.* We

* The district court construed the 28 U.S.C. § 2241 (2000) petition as a motion to vacate under 28 U.S.C. § 2255, and dismissed it as a successive motion lacking the authorization required by § 2255.

Having construed Hall's notice of appeal and informal brief as a motion for authorization, see United States v. Winestock, 340 F.3d 200, 208 (4th Cir.), petition for cert. filed, ___ U.S.L.W. ___ (U.S. Sept. 22, 2003) (No. 03-6548), we conclude that, under the

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

strictures of that statute, Hall is not entitled to such authorization.