

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7062

RODNEY C. DOMAN,

Petitioner - Appellant,

versus

THOMAS MCBRIDE, Warden, Mount Olive
Correctional Complex,

Respondent - Appellee.

Appeal from the United States District Court for the Northern
District of West Virginia, at Clarksburg. Irene M. Keeley, Chief
District Judge. (CA-02-144-1)

Submitted: March 8, 2004

Decided: April 27, 2004

Before WILKINSON, SHEDD, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Rodney C. Doman, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Rodney C. Doman seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2254 (2000) petition for failure to exhaust his state court 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. 2001) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). We have independently reviewed the record and conclude that Doman has not made the requisite showing. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). Accordingly, we deny Doman's motion for 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