

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-7505**

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NICHOLAS S. BEHARRY,

Petitioner - Appellant,

versus

JON P. GALLEY, Warden; ATTORNEY GENERAL FOR  
THE STATE OF MARYLAND,

Respondents - Appellees.

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Appeal from the United States District Court for the District of  
Maryland, at Baltimore. Andre M. Davis, District Judge. (CA-03-  
1873-AMD-1)

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Submitted: December 18, 2003

Decided: January 16, 2004

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Before LUTTIG, SHEDD, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Nicholas S. Beharry, Appellant Pro Se. John Joseph Curran, Jr.,  
Attorney General, Ann Norman Bosse, OFFICE OF THE ATTORNEY GENERAL  
OF MARYLAND, Baltimore, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Nicholas S. Beharry seeks to appeal the district court's order dismissing as untimely filed his petition filed under 28 U.S.C. § 2254 (2000). The order is not appealable 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 absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies 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, 336 (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 Beharry has not made the requisite showing. 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