

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-7930**

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PERRY ALLEN BURKS, SR.,

Petitioner - Appellant,

versus

GENE M. JOHNSON, Director, Department of  
Corrections,

Respondent - Appellee.

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Appeal from the United States District Court for the Western  
District of Virginia, at Roanoke. James C. Turk, Senior District  
Judge. (CA-03-727-7)

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Submitted: March 25, 2004

Decided: April 1, 2004

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Before TRAXLER, KING, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Perry Allen Burks, Sr., Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Perry Allen Burks, Sr., seeks to appeal the district court's order dismissing as untimely his habeas corpus petition filed under 28 U.S.C. § 2254 (2000). 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). 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 Burks has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny Burks' motion for production of documents. 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