

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-7963**

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MARCOS ALVAREZ CASTILLO,

Petitioner - Appellant,

versus

GENE M. JOHNSON, Director of the Virginia  
Department of Corrections,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern  
District of Virginia, at Norfolk. Raymond A. Jackson, District  
Judge. (CA-03-128-2)

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Submitted: March 25, 2004

Decided: April 30, 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Dismissed by unpublished per curiam opinion.

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Marcos Alvarez Castillo, Appellant Pro Se. Josephine Frances  
Whalen, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond,  
Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Marcos Alvarez Castillo seeks to appeal the district court's order dismissing as untimely his petition filed under 28 U.S.C. § 2254 (2000). An appeal may not be taken from the final order in a § 2254 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, 336-38 (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 Castillo has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny 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