

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6462

JAMES O. HODGKIN, IV,

Petitioner - Appellant,

versus

G. K. WASHINGTON, Warden, Buckingham
Correctional Center,

Respondent - Appellee.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Samuel G. Wilson, District
Judge. (CA-03-590-7-SGW)

Submitted: June 10, 2004

Decided: June 18, 2004

Before WILLIAMS and TRAXLER, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

James O. Hodgkin, IV, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

James O. Hodgkin appeals from the dismissal of his 28 U.S.C. § 2254 (2000) petition by the district court as untimely filed. An appeal may not be taken from the final order in a habeas corpus proceeding unless a circuit judge or justice issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(2000). This court will not issue a certificate of appealability as to claims dismissed by a district court on procedural grounds unless the movant 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 reviewed the record and determine that Hodgkin has not made the requisite showing. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). 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 in the decisional process.

DISMISSED