

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7061

ALEJANDRE D'CARLOS TABB,

Petitioner - Appellant,

versus

EDDIE LEE PEARSON, Warden,
Sussex II State Prison,

Respondent - Appellee.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Glen E. Conrad, District Judge.
(CA-04-91-7)

Submitted: December 23, 2004

Decided: January 12, 2005

Before GREGORY, SHEDD, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Alejandro D'Carlos Tabb, Appellant Pro Se. Thomas Drummond
Bagwell, Assistant Attorney General, Richmond, Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Alejandro D'Carlos Tabb seeks to appeal the district court's orders denying relief on his petition filed under 28 U.S.C. § 2254 (2000) and denying his motion to reconsider under Fed. R. Civ. P. 59(e). 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 (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 Tabb 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