

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-7597**

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WAVERLY K. HOOD,

Petitioner - Appellant,

versus

GENE JOHNSON, Director, Virginia Department of  
Corrections,

Respondent - Appellee.

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**No. 05-6056**

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WAVERLY K. HOOD,

Petitioner - Appellant,

versus

GENE JOHNSON, Director, Virginia Department of  
Corrections,

Respondent - Appellee.

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Appeals from the United States District Court for the Eastern  
District of Virginia, at Norfolk. Henry Coke Morgan, Jr., Senior  
District Judge. (CA-04-325-2)

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Submitted: March 11, 2005

Decided: March 28, 2005

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Before MOTZ and DUNCAN, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Waverly K. Hood, Appellant Pro Se. Paul Christopher Galanides,  
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Unpublished opinions are not binding precedent in this circuit.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:

These related appeals have been consolidated. In No. 04-7597, Waverly K. Hood 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 (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 Hood has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss this appeal.

In No. 05-6056, Hood appeals the district court's order construing his motion for a new trial as a § 2254 petition and dismissing it as successive and unauthorized. A certificate of appealability is required for our review of this appeal. See Jones v. Braxton, 392 F.3d 683, 688-89 (4th Cir. 2004). We have

independently reviewed the record and conclude Hood has not made the requisite showing for issuance of a certificate of appealability. Accordingly, we deny a certificate of appealability, deny Hood's motion for preparation of a trial transcript at government expense, and dismiss this 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