

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-8008**

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JOSEPH ORTIZ,

Petitioner - Appellant,

versus

GENE M. JOHNSON, Director, 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. Jerome B. Friedman, District  
Judge. (CA-04-359-2)

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Submitted: August 15, 2005

Decided: August 25, 2005

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Before MOTZ, TRAXLER, and KING, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Joseph Ortiz, Appellant Pro Se. Steven Andrew Witmer, 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Unpublished opinions are not binding precedent in this circuit.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:

Joseph Ortiz, a state prisoner, seeks to appeal the district court's order adopting the report and recommendation of the magistrate judge and dismissing his petition filed under 28 U.S.C. § 2254 (2000) as time-barred under 28 U.S.C. § 2244(d)(1) (2000). The order is not appealable 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 Ortiz 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