

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-7108

JERRY LEVI REITMIRE,

Petitioner - Appellant,

versus

STATE OF WEST VIRGINIA ex rel. State of
Florida,

Respondent - Appellee.

Appeal from the United States District Court for the Southern
District of West Virginia, at Huntington. Robert C. Chambers,
District Judge. (CA-04-1350-3)

Submitted: December 12, 2005

Decided: January 5, 2006

Before LUTTIG, MICHAEL, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jerry Levi Reitmire, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jerry Levi Reitmire, a state prisoner, seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing without prejudice his petition under 28 U.S.C. § 2241 (2000) for failure to exhaust state court remedies. 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 Reitmire has not made the requisite showing.

Accordingly we deny a certificate of appealability and dismiss the appeal. We deny Reitmire's motion for stay and motion for bail and 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