

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-7549**

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HENRY PERSINGER,

Petitioner - Appellant,

versus

THOMAS MCBRIDE, Warden,

Respondent - Appellee.

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Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. David A. Faber, District Judge. (CA-03-618-5)

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Submitted: April 20, 2006

Decided: April 24, 2006

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Before MICHAEL, KING, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Henry Persinger, Appellant Pro Se. Dawn Ellen Warfield, Jon Rufus Blevins, OFFICE OF THE ATTORNEY GENERAL OF WEST VIRGINIA, Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Henry Persinger seeks to appeal the district court's order adopting the recommendation of a magistrate judge and denying 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 Persinger has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We further deny Persinger's motion to proceed in forma pauperis. 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