

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 07-7184

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ROBERT STANLEY CLEMENTS,

Petitioner - Appellant,

versus

GENE JOHNSON, Director, Virginia Department of  
Corrections,

Respondent - Appellee.

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Appeal from the United States District Court for the Western  
District of Virginia, at Roanoke. Jackson L. Kiser, Senior  
District Judge. (7:07-cv-00177-JLK)

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Submitted: December 14, 2007

Decided: June 6, 2008

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Before NIEMEYER, TRAXLER, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Robert Stanley Clements, Appellant Pro Se. Karri B. Atwood, OFFICE  
OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for  
Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Stanley Clements seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 (2000) petition as untimely. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. See 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 any assessment of the constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Clements has not made the requisite showing. Accordingly, we deny Clements' motion for 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